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FELIX GRUNDY

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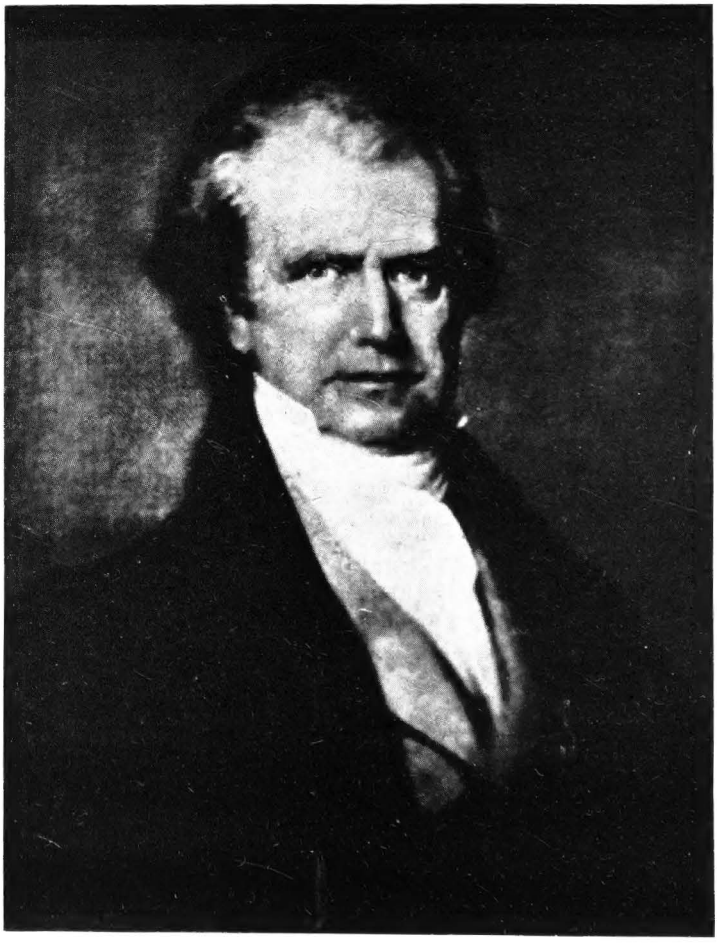

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FELIX GRUNDY

CHAMPION OF DEMOCRACY

BY

JOSEPH HOWARD PARKS

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TO

MY MOTHER

AND

THE MEMORY OF

THE MOTHER OF

MY WIFE

PREFACE

The stories of the lives of the so-called great men of the nation have been told and retold, but little has been done toward giving due credit to those who made them great. A Clay, a Calhoun, or a Jackson does not spontaneously spring into national prominence. They owe much to those lesser figures who, for the most part, remain behind the scene and direct the springs of action. The purpose of this book is to rescue from obscurity one of the nation's unheralded masters of political strategy.

Many persons have made valuable contributions to the progress of this work. I am indebted to the late Judge John H. DeWitt through whose kindness I was able to make full use of the newspapers and manuscripts in the collection of the Tennessee Historical Society. To Mrs. John Trotwood Moore and her able staff at the Tennessee State Library I desire to express my appreciation for the patience which they always manifest toward those who seek information. I am grateful to Colonel and Mrs. Henry Dickinson and Mr. William E. Steger for their kindness in permitting me to examine valuable Grundy papers in their possession. Thanks are also due to the staffs of the Lawson McGhee Library of Knoxville, the Carnegie Library of Nashville, the Public Library of Lexington, Kentucky, the Kentucky State Library, and the Division of Manuscripts of the Library of Congress.

Sincere thanks are due Professor Wendell H. Stephen-

son and Mr. Fred C. Cole, editors of the Southern Biography Series, for invaluable criticisms offered during the final revision of this manuscript. Professors Henry H. Simms of Ohio State University, Stanley J. Folmsbee of the University of Tennessee, and Robert D. Highfill of State Teachers College have read the manuscript, and through their valuable suggestions have prevented many errors. To these gentlemen I express my appreciation. Most of all I am grateful to my wife, Alliene Templeton Parks, for encouragement and assistance during every stage of the preparation of this work.

JOSEPH HOWARD PARKS

Memphis, Tennessee
September 22, 1939

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Chapter I

EARLY YEARS

WESTERN VIRGINIA was panic stricken. The terrible Simon Girty was somewhere in that region and his "relentless ferocity toward his foresworn countrymen" was well known. This "unrelenting barbarian" had been adopted by the Seneca Indians and had become so thoroughly versed in savagery as to have his name associated with "everything cruel and fiendlike." The Revolutionary War gave him and his Indian allies the desired opportunity to deal out huge measures of misery to the frontier people.[1]

One of the terror-stricken families of western Virginia was that of George Grundy. He had been born in England and had married Elizabeth Beckham who was reputed to be of Welsh descent. The date of Grundy's migration to the colonies has not been determined, but it was probably about 1750. He was a member of the Bedford County, Virginia, militia in 1756, and in 1776 he was listed among the "Gentlemen Justices" of Berkeley County in western Virginia.[2]

As General Burgoyne led his British army southward

[1] J. H. Battle and William H. Perrin, *Kentucky, A History of the State* (Louisville, 1885), 551; Wills de Haas, *History of the Early Settlements and Indian Wars of Western Virginia* (Wheeling, 1851), 223.

[2] Florence Houston, *Maxwell History and Genealogy* (Indianapolis, 1916), 224.

from Lake Champlain and George Rogers Clark collected his heroic band for an invasion of the Northwest, a seventh son was born into the home of George and Elizabeth Grundy on Back Creek, Berkeley County, on September 11, 1777.[3] The joy over the arrival of young Felix was greatly dimmed by the horrors of savage atrocities. In that same month Girty and a band of four hundred Indians descended upon Fort Henry at Wheeling, and although the fort withstood the attack, buildings and livestock in great abundance were destroyed before the savages withdrew to reorganize for other attacks. Throughout the exposed settlements of frontier Virginia inhabitants were massacred "with every conceivable cruelty." Scarcely a home escaped the fury, and that of the Grundy family was not one of the fortunate. The eldest son, William, and two other boys were returning from a salt lick near the source of Booth's Creek when they were fired upon by the Indians. William was killed; his companions escaped. The story of the brutal slaying of his brother made an impression upon Felix which he was never able to forget.[4]

So fierce were the Indian attacks that many families fled from western Virginia to the protection of the blockhouses along the Monongahela River, especially to Red Stone Fort near the present Brownsville, Pennsylvania. There George Grundy joined these refugees in

[3] Vernon Aler, *A Full and Complete History of Martinsburg and Berkeley County, West Virginia* (Hagerstown, n.d.), 123. In listing the children of George Grundy, Houston places Felix as the seventh son but lists two younger boys. Felix himself said he was the youngest of the sons. See Grundy's speech in the United States Senate, in *Congressional Debates*, 21 Cong., 1 Sess., 218.

[4] Battle and Perrin, *Kentucky*, 155; Haas, *Early Settlements and Indian Wars of Western Virginia*, 220, 243; Grundy's speech, in *Cong. Debates*, 21 Cong., 1 Sess., 218.

1779. In addition to being a place of refuge, Red Stone, accessible from Virginia and Maryland by way of the Braddock road, was the principal point of embarkation for Kentucky.[5]

The winter of 1779–1780 was severe and those emigrants who had congregated at Red Stone felt its bitterness. The zero weather and lingering snows threatened to destroy all wild life, and the price of grain soared. Those who were caught on the road to Kentucky were frequently forced to feed upon "the wasted carcasses of their perished animals." [6]

But the chills of winter could not counteract the glowing tales of the opportunities which awaited those who would migrate to Kentucky. The coming of spring brought renewed hope and enthusiasm. Being hard pressed to support his growing family and knowing that the early settlers would get the choice of lands in the newly opened Kentucky region, George Grundy decided to join the emigrants in their trek to the "dark and bloody ground."

The Grundy family settled in old Jefferson County near the present Springfield, and within the next few years George Grundy and his son John entered large tracts of land on Beech Fork and Cartwright Creek.[7] But the father did not live many years after migrating to Kentucky, and the responsibility of rearing the large

[5] James R. Albach [James Handasyd Perkins], *Annals of the West* (Pittsburgh, 1856), 429; Battle and Perrin, *Kentucky*, 207.

[6] Battle and Perrin, *Kentucky*, 169.

[7] Willard Rouse Jillson (ed.), *Old Kentucky Entries and Deeds* (Louisville, 1926), 213. Two other sons of George Grundy, Samuel and George, Jr., later became large landowners, and both John and Samuel served as sheriff of their county. See Washington County (Kentucky) Deed Books, A, B, C, D, E, F; Washington County Court Records, Order Book, A, 9, 203.

family was left upon the mother. Life was hard on the frontier "when death was in almost every bush, and every thicket concealed an ambuscade." Two more of her sons were killed by the Indians,[8] and the widowed mother was "plundered of her whole property, in a single night." From a position of "affluence" she was "reduced to poverty in a moment, and thereby compelled to labor with her own hands." [9]

Mrs. Grundy sent her "last and favorite son," Felix, to the Bardstown Academy, which was under the able management of Dr. James Priestly. While there young Grundy had as schoolmates John Rowan, John Pope, John Allen, Archibald Cameron, and others who were to influence greatly the future history of Kentucky, and to be considered by many "the best crop of men that Kentucky ever produced." Stories were told of a rather keen rivalry between Rowan and Grundy in their study of Greek and Latin, but there is little evidence to support a claim to exceptional scholarship on the part of Grundy. He did, however, develop a high regard for Dr. Priestly, and after Grundy had moved to Tennessee, it was due largely to his influence that Priestly was brought to Nash-

[8] Grundy's speech, in *Cong. Debates,* 21 Cong., 1 Sess., 218. One of the two, Charles, was apparently killed while on a campaign against the Indians late in 1793. Before leaving on the campaign he made his will, bequeathing to Felix all his clothes provided Felix would pay Gardam, another brother, for a saddle and gun which the last furnished for the campaign. The will was probated April 3, 1794. See Washington County Will Book, A, 20, 57.

[9] Grundy's speech, in *Cong. Debates,* 21 Cong., 1 Sess., 218. After losing her property, Mrs. Grundy was for a time employed as caretaker of the Washington County courthouse. She also kept a tavern and at her death in 1824 was the owner of considerable property including several slaves. See Washington County Court Records, Order Book, A, 155, 107, and Inventories, D, 21–23. Apparently Mrs. Grundy never learned to write since her will was written and signed for her by her son Felix. She made the customary mark in the place of her signature.

ville and made president of Cumberland College, later the University of Nashville.[10]

Grundy's mother was eager that he study medicine. There was a superstition in the West that a seventh son possessed a miraculous healing power,[11] but there is no proof that Mrs. Grundy entertained such a belief. Grundy, however, exhibited great talent as a public speaker and was determined upon a legal and political career. His mother gave evidence of the sound judgment which she is said to have possessed when she abandoned the idea of a medical career for her son and encouraged him in his chosen profession.

After completing his studies at the Academy, Grundy spent two years reading law in the office of George Nicholas, one of the most prominent lawyers of the West and "a man of great virtue and noble traits of character." Grundy gained more than mere legal knowledge from his intimate association with Nicholas. The warm friendship that developed between the two and the sound advice and sincere sympathy that Nicholas was able to offer were invaluable aids to a young lawyer. It is said that on the occasion of Grundy's election to the Kentucky constitutional convention of 1799, Nicholas advised him to be

[10] A. L. Crabb, *Genealogy of George Peabody College for Teachers* (Nashville, 1935), 14–15. Soon after Grundy moved to Tennessee he was made a member of the board of trustees of Cumberland College and served in that capacity until his death in 1840.

[11] "A *seventh son* is a faith doctor in virtue of his birth. His knowledge being intuitive, he may commence practice at the tenderest years: nor can he ever after acquire any additional skill from the disclosures of others, as he already possesses all that others might communicate. But to give full force and virtue to this charm, it is necessary that seven sons should be born in succession: should an unlucky daughter intervene, blasted are all the hopes of the expecting family; the seventh lad comes into the world with the same dull perceptions as his fellow men." Judge [James] Hall, *Letters from the West* (London, 1828), 341.

"honest in all your purposes, and never deceive the people." [12] If such counsel were given, it was probably intended as a check on the movement to change much of the work of the convention of 1792, in which Nicholas had been a "particularly bright luminary."

On November 5, 1795, Grundy was admitted to the bar and began practice in Washington County. In the following year he was appointed commonwealth attorney, a position he held until 1803 when he resigned rather than prosecute his old schoolmate, John Rowan, who had killed a Dr. Chambers in a duel. He was apparently reappointed, for the records show that he received pay as commonwealth attorney until 1806.[13]

While residing at Springfield, Grundy married Ann Phillips Rodgers, the daughter of John and Sarah Daughtery Rodgers. The Rodgers family had migrated to Kentucky from Lunenburg County, Virginia. Ann's paternal grandmother was the daughter of John Caldwell and Mary Phillips, both of whom were of Irish descent. Another daughter married Patrick Calhoun of South Carolina and became the mother of John C. Calhoun. Thus Mrs. Grundy was a second cousin of the great South Carolinian.[14]

[12] William H. Brown, *Portrait Gallery of Distinguished Citizens* (Hartford, 1845), 97; *United States Magazine and Democratic Review* (Washington), III (1838), 161.

[13] Lucius P. Little, *Ben Hardin: His Times and Contemporaries* (Louisville, 1887), 179; Washington County Court Records, Order Book, A, 124, 231.

[14] Ann Grundy Eakin Steger, "Genealogy of the Grundy, Caldwell, Calhoun, and Rodgers Families," 1 (typewritten copy in possession of William E. Steger, Nashville); John Rodgers to Elias B. Caldwell, May 11, 1825, in possession of Colonel Henry Dickinson, Nashville.

Grundy's wife was a source of great strength to him throughout the remainder of his life. In addition to presiding over the home in which there were twelve children, she found time for social and religious work. After moving to Nashville, she became a leader in the religious

Young Grundy made his first appearance in political life when he represented Washington County in the Kentucky constitutional convention of 1799. The constitution of 1792 had never been pleasing to the more democratic residents of the state. It had been designed by and for the aristocracy of the older Bluegrass region, and its provisions were such as to perpetuate the ascendancy of those who gave it being. Discontent was especially rife in the newer section of the state south of the Kentucky River.

By an act of 1795 lands in the Green River country had been placed on the market at thirty cents an acre. In 1797 and 1798 both settlement and speculation were further encouraged by an extension of credit. Immigrants as well as poorer residents of the older sections of the state flocked into the South Country [15] in great numbers. The older and more aristocratic Bluegrass residents viewed this rapid development of the South Country with a mixture of alarm and contempt. When John Breckinridge was informed by a friend that he planned to sell his property and move to the Green River region, the wealthy Bluegrass lawyer and politician replied: "And what are you about to exchange all of this for? A country you have never seen; a country when you do see, you will see filled with nothing but hunters, horsethieves & savages. And a country where wretchedness, poverty & sickness will always reign." [16]

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life of that city, and it was due to her efforts that the first Sunday School was organized in Nashville. See Ann Grundy Eakin Steger, "Sketch of Felix Grundy," 5 (typewritten copy in possession of W. E. Steger); Nashville *Tennessean*, November 26, 1922.

[15] The term "South Country" or "South Side" was frequently used to designate the counties south of the Kentucky River.

[16] Breckinridge to Samuel Meredith, August 7, 1796, in Breckinridge Papers (Division of Manuscripts, Library of Congress).

The democratic spirit of frontier Kentucky demanded a government that rested directly upon the consent of the governed. Under the constitution the House of Representatives was elected by the direct vote of the people, but the Senate and the governor were chosen by an electoral college composed of representatives from each county equal in number to the county's representation in the House. Such an apportionment gave control of both the electoral college and the Senate to the more populous and conservative Bluegrass counties. The Senate also chose its own speaker, who would succeed the governor in case the latter became incapable of performing the duties of his office.[17]

Before the constitution of 1792 was a year old there began an agitation in favor of calling a new convention to revise the document. The government should be taken from the hands of the Bluegrass aristocracy and given over to the people, it was argued. When the people desired a redress of grievance they should not be deterred by a Senate which felt no responsibility to them, nor a governor who perhaps had been chosen by the Senate. "By gradual artful and indirect means," exclaimed an ardent democrat, the people had been "insensibly led away from the pure fountain head of liberty." Although they faithfully attended elections and sent their representatives to the House, no favorable action could be had unless the "Kentucky nobility" graciously consented to give it sanction.[18]

The framers of the constitution had made provision

[17] For a copy of the constitution, see Bennett H. Young, *History and Texts of the Three Constitutions of Kentucky* (Louisville, 1890), 16 ff.

[18] "A Republican," in Lexington *Kentucky Gazette*, June 8, 1793.

for a referendum in 1797 and again in 1798 to ascertain the will of the people on the question of a new convention. Before that date the legislature, by a two-thirds vote of each house, might issue a call for a convention. In 1793 the House attempted to make use of the latter provision and passed a resolution authorizing a referendum, but the conservative Senate refused to assent. Subsequent attempts met with the same fate.

The conservative element which controlled the Senate bitterly opposed the idea of a convention. The evils of the constitution were declared to exist in the imagination only. Envy was the poisonous influence which was preying upon those who possessed little or no property. All men of property should unite in opposition to the mob which sought to emancipate the slaves and divide up the large estates. "I feel very serious on the Occasion," wrote one affluent man to another, "to think our Liberty and property are likely to be exposed to Ignorant & designing men who never will be satisfied to live under any Government unless they can be continually changing the Same agreeable to their humors and notions at the expense of the Individuals of the State." [19]

What need was there for change in the constitution? inquired the well-to-do John Breckinridge. "The honest, the industrious & respectable citizens are in a state of quietness & contentment" under the existing government. The question was not whether men were contented, retorted young Henry Clay, who was seeking to win his political spurs. "Tranquility of the mind" frequently had the appearance of happiness. The true question was whether the "sum of human happiness" could

[19] John McIntire to Breckinridge, February 10, 1799, in Breckinridge Papers.

be increased "by the reform of corrupt institutions, or the change of licentious manners." [20]

It was due primarily to the activities of Clay that there developed some sentiment in favor of emancipation, but it reached no great proportion. Clay himself soon realized that those who aspired to high places in Bluegrass politics should choose a more pleasing topic for discussion. The danger of emancipation was overemphasized in order to arouse the slaveholders. It is doubtful whether the Bluegrass conservatives feared the loss of slaves nearly so much as the loss of their control over the government.

No referendum was held until 1797, and then five counties failed to make returns. The sentiment expressed in the other counties, however, was more than twelve to one in favor of a convention. The second vote was taken in 1798, and again the returns were so incomplete as to preclude a definite statement as to the will of the people. But, since the votes counted were three to one in favor of the proposed convention, it seems safe to conclude that a majority was favorable.

Felix Grundy favored neither emancipation nor a division of the large estates. The members of the Grundy family possessed much land and numerous slaves but they had little in common with the landed aristocracy of the Bluegrass country. Washington County was more advanced than some other parts of the South Country, but the people as a whole lacked the "manners of Virginia" which were so evident in the older regions. Stocky, blue-eyed, red-faced, with a mass of light brown hair pushed back over his ears, and possessing both the "idiom and the manner of the unadulterated West," Grundy was a true son of the county which he represented.

[20] Breckinridge to Isaac Shelby, March 11, 1798, *ibid.*; "Scaevola," in Lexington *Kentucky Gazette*, April 25, 1798.

The proceedings of the convention were never published and the newspapers carried no account of the discussions. A journal was published, but it was too brief in its scope to give the names of persons who presented the various proposals or the votes on them.[21]

The method of procedure adopted by the convention provided that any member could submit to that body such provisions as he wished incorporated in the new constitution. The proposals were discussed, and those that were accepted by a majority of the delegates were referred to a committee whose duty it was to draft the document.

During the preconvention campaign the question of qualifications for voters and officeholders elicited much discussion. The Breckinridge faction was openly accused of seeking control of the convention in order to incorporate in the new constitution a property qualification for voting.[22] Although the accusation was vigorously denied, the landed aristocracy in the convention made an unsuccessful attempt to force the adoption of a clause limiting the suffrage to those who paid an "annual tax equal to the tax on 500 acres of first rate land." [23] Grundy was numbered with the majority which defeated the proposal by a vote of forty-one to eleven.

There was some sentiment in favor of requiring a religious qualification for officeholders. "It would be a disgrace," wrote David Logan, "to assert that no Religious test should be required of those who fill those important places." How could a man's conscience be bound "by an

[21] Breckinridge kept brief notes on the proceedings but they are so fragmentary and confused as to make them almost unintelligible. See Breckinridge Papers.

[22] William E. Boswell to Breckinridge, May 12, 1799, *ibid.*

[23] William E. Connelley and E. Merton Coulter, *History of Kentucky* (New York, 1922), I, 401.

Oath Sworen by god when he believes either that there is no God or that he is not accountable to him?" [24]

Grundy's colleague from Washington County was Robert Abell who was the only Catholic in the convention. He and Grundy roomed together, and at their place of lodging there was also a onetime Presbyterian preacher who had deserted the pulpit in favor of politics and had been elected as a representative to the convention. During the early days of the session, that gentleman called Grundy's attention to a provision which he intended to place before the convention. It provided that all Roman Catholics should be forever barred from holding any office of trust and profit within the commonwealth of Kentucky. Grundy immediately took a pen and wrote out a provision of his own which stated that " 'no broken-down Presbyterian preacher shall be eligible to any office in this commonwealth.' " He then stated that just as soon as the anti-Catholic provision should be placed before the convention, he would present his proposition and urge its adoption.[25] Neither provision was ever presented, and no religious qualification was set for officeholders.

Grundy made himself conspicuous in the convention by his effort to incorporate within the new constitution a section establishing circuit courts. The system of courts in Kentucky had been a subject of discussion for several years. The constitution of 1792 had provided for one court to a district of several counties. The poor facilities for travel and the distance from the remote sections to the Court caused great inconvenience. But, in view of the fact that the population in 1792 was widely scattered, there was adequate excuse for such an arrangement. As

[24] David Logan to Breckinridge, July 17, 1799, in Breckinridge Papers.

[25] Martin J. Spalding, *Sketches of the Early Catholic Missions of Kentucky* (Louisville, n.d.), 26 n.

the population increased there was a corresponding development of opinion in favor of a more adequate and convenient judicial system.

The plan offered by Grundy called for the establishment of circuit courts in order that all cases might be tried in the county where the defendant resided. A judge was to be assigned to each circuit and would travel his circuit and hold court in each county. In his proposal Grundy encountered the opposition of Breckinridge, whose oratorical ability, great political power, and "noble appearance" made him the strongest adversary the conservatives could produce. Bluegrass lawyers had the existing courts well in hand, and deemed it unwise to make a change. After a lengthy discussion the plan was rejected, but a provision was made whereby the legislature could create such courts at a future date should it see fit.[26]

All proposals that were accepted by the convention were referred to a committee of twelve of which Grundy was a member, and that committee drafted the constitution. The outstanding objections to the old document were corrected in the new. The electoral college was abolished and the senators and the governor were to be elected by a direct vote of the people. The office of lieutenant governor was created and he too was made responsible to the people.[27]

Although Grundy was not the most prominent figure in the convention, he had dared to cross swords with Kentucky's best and undoubtedly showed some ability. The initial step in his political career had pleased a ma-

[26] *Journal of the Constitutional Convention* (1799), 17; Little, *Ben Hardin*, 468; Humphrey Marshall, *History of Kentucky* (Frankfort, 1824), II, 350.

[27] *Journal of the Constitutional Convention* (1799), 8, 21. For a copy of the constitution, see Young, *Three Constitutions of Kentucky*, 35 ff.

jority of the people in his home county. In 1800 and for two sessions thereafter, his constituents sent him as one of Washington County's delegates to the Kentucky House of Representatives.

The journals show that from Grundy's entrance into the House he took a leading part in legislation. He served on a majority of the important committees and no name appeared more frequently upon the records of that body. His mind was "happily tempered for political warfare" and he delighted in the excitement of combat, but he always held himself above the bitterness of personal enmities. Speaking in a style free from corruption "by the fashion of the *ton* and times," his sentiments seemed to flow according to the dictates of nature rather than the rules of art. Rapidly acquiring the polish of more advanced Kentucky society and at the same time retaining much of the vigor and freshness of the newer frontier, he was a logical leader in the cause of democracy. During the three sessions in which he represented Washington County, the greater part of his time was devoted to the enactment of a law establishing a system of circuit courts. When the Breckinridge faction defeated his proposal in the convention, Grundy resolved to place it before the legislature and continue to urge it until favorable action was received.

His effort met with defeat in 1800 but again in 1801 he came back with his pet plan. Sentiment in favor of the proposal was increasing. From 1792 to 1801 inclusive thirty-five new counties were created, twenty-one of which were south of the Kentucky River. The Green River region favored the new system almost unanimously.

As a member of the committee which had under consideration "all matters relative to courts of justice," Grundy introduced a resolution calling for the abolition

of the district and quarter-session courts and the establishment of a system of circuit courts.[28] The circuit judge was to preside over courts in several counties and have two assistants in each county.

Speaking in behalf of his resolution, Grundy declared that the principal purpose of government was to afford contentment and happiness for the people. This could be accomplished only when advantages and privileges were equally and impartially distributed among them. Any system or regulation that furnished "ease and convenience" to some sections but not to all was certain to fail to satisfy the people. Kentucky's judiciary was such a system. For want of legal information the judges of the courts of quarter-session were liable to be imposed upon. Shrewd lawyers took advantage of the ignorance of the justices. But if a learned judge could be associated with two assistants of the calibre of those who were sitting as justices, the greatest evil would be eliminated. He did not see how the change could involve any additional cost, and there was a strong probability that the expense to both suitors and the government might be reduced. Under the existing system, both the witnesses and principals were forced to travel great distances to attend the District Court. Under the proposed plan they would seldom be forced to leave their home county, and the heavy expense for mileage would be eliminated or much reduced. Convenience was also a strong point in favor of circuit courts. If persons connected with a suit appeared at court and found their case had been postponed they could immediately return to their work. But if they had traveled many miles, they must remain idle until their case was taken up.

Grundy estimated that nine circuit judges would be

[28] *Journal of the House of Representatives* (Kentucky), 1801, p. 5. Hereafter cited as Kentucky *House Journal.*

sufficient. Each judge could hold court three times annually in five counties. If each should be paid $700 a year and the assistants paid $2.00 a day, there would be a saving over the old system. Attorneys could attend the courts at no additional cost, and a large sum could also be deducted from the expense of transporting witnesses and prisoners. He could see in the proposed system a saving of more than $6,000 annually and a more convenient and efficient judicial system.[29]

The opposition could see no such saving as was pictured by Grundy, but even if there should be a saving the lack of uniformity would more than offset the advantage. The system of district courts had been established largely for the purpose of settling land disputes. Great progress had been made and by frequent consultations the judges had been able to work out a fairly definite set of rules for the settling of such disputes. A change to a new system would be a step backward since the new "$2 judges" would in all probability not avail themselves of the principles laid down in former decisions.[30]

After a four-day discussion in which "great heat, animosity & party spirit" were in evidence, the resolution was rejected by a vote of thirty-four to twenty-three. When victory seemed near at hand the Green River representatives, thinking more of an extension of credit than of an adequate judicial system, had switched from their former position and voted against the court proposal.[31] The "Green River band" was continually seeking relief from the financial obligations they owed to the state for their lands. As a result of its increasing number and its "union

[29] Frankfort (Kentucky) *Palladium*, November 20, 1801.

[30] *Ibid.*

[31] Samuel Hopkins *to* Breckinridge, November 21, 1801; Thomas Todd to *id.*, November 9, 1801, in Breckinridge Papers.

of sentiment," this band had "become formidable" in the legislature. "Its votes were for barter and exchange —'you vote for *my* law; we want indulgence, we want something done for Green river; and we will vote for yours.' " [32]

The opponents of judicial reorganization felt that Grundy and his friends had been left in such a position as to destroy forever the agitation in favor of circuit courts. But the persistent Grundy was back again in 1802 ready to renew the fight. A resolution was introduced to test the attitude of the House, and when it was rejected an effort was made to extend the existing district system. The obstinate conservatives held fast, and when they refused to extend it, the "cunning and intriguing" Grundy returned to his plan. Many who were opposed to circuit courts but desired a more convenient system than the existing one, finding their way blocked in their plan to extend the district courts, reversed themselves and aided in the passage of the bill abolishing the existing system and creating a system of circuit courts. The conservative Governor vetoed the bill but both houses promptly overrode his veto.[33]

The new act was almost identical with the plan so warmly debated during the previous session. Frontier distrust of Bluegrass judges was apparent in the provision that the two assistants in each county would not be required to be learned in law.[34] It was calculated that the common sense of the two assistants when mixed with the legal knowledge of the circuit judge would probably produce just decisions.

32 Marshall, *History of Kentucky*, II, 179.

33 Todd to Breckinridge, December 22, 1802; A. Sneed to *id.*, December 30, 1802, in Breckinridge Papers.

34 William Littell (ed.), *The Statute Law of Kentucky, 1800–1803* (Frankfort, 1807–1811), II, 37.

The indignation of the Bluegrass conservatives knew no bounds. "Our Assembly have played the devil with our Judiciary System," wrote General Samuel Hopkins. "Grundy and his coadjutors will have much to answer for," stormed Harry Innes; "10 years has been almost lost to Litigants by the improper interference of our Genl. Assembly." [35]

The final passage of the bill was a credit to Grundy's persistence and his skill at political maneuvering, but the manner in which the new courts functioned reflected more political than judicial wisdom on the part of the sponsor. Ignorance, indolence, and a lack of co-operation on the part of the assistants retarded the business and lowered the efficiency of the new courts. The story was told that Circuit Judge Henry Broadnax in an air of contempt would turn from one assistant to the other and put the same question: "What do you *guess?*" [36]

[35] Hopkins to Breckinridge, January 26, 1803; Harry Innes to *id.*, December 23, 1802, in Breckinridge Papers.

[36] Little, *Ben Hardin*, 469; Marshall, *History of Kentucky*, II, 350–52.

Chapter II

"THE KNIGHT OF NELSON"

IN 1803 Grundy moved to Bardstown in Nelson County and became a member of the "Bardstown Pleiades," a bar which became famous for its excellence and whose members rose to high positions in the state and nation.[1]

Grundy's work in the constitutional convention and the legislature had already marked him as a champion of democracy. The ease with which he assumed political leadership in his adopted county was attested by the fact that within one year after his arrival Nelson County chose him as a representative to the legislature.

The South Country's struggle to break the Bluegrass hold upon state politics had passed through two phases. It entered upon a third when the legislature assembled in 1804. John Breckinridge and John Brown, Kentucky's two United States senators, were both from the Bluegrass section. In fact, none but North Country men had ever represented the state in the Senate. Democratization of the legislature through the recent changes in the constitution foreshadowed some lively contests over future selection of senators. The first test of strength came in 1804 when Senator Brown of Frankfort was forced to stand for re-election.

[1] John Rowan and Grundy became United States senators; W. P. Duval and C. A. Wickliffe, governors of Kentucky; and Ben Hardin, United States congressman.

Brown's opponents were Judge Buckner Thurston of Lexington and John Adair of Harrodsburg. Although Adair lived on a large plantation where the soil was "extremely fertile" and produced "annually thirty or forty hundred weight of corn per acre," [2] he was generally considered a South Country man. The opposition to Brown, however, was not purely sectional even though it was greatest south of the Kentucky River. Many north of the river felt that his long period of public service might well be terminated. This explains the entrance of Judge Thurston into the race.

Grundy, as champion of the South Side, rallied his forces in support of Adair, and was responsible for reviving and circulating the story of Brown's alleged connection with the Spanish conspiracy in 1788.[3] Henry Clay, who had abandoned his earlier opposition to certain principles of Bluegrass politics and married into the wealthy Hart family, was now a member of the legislature and entered the contest as leader of the Brown supporters.[4]

The first vote in the House showed Adair thirty, Thurston eighteen, and Brown fourteen. Twenty-two of the thirty votes cast for Adair came from the counties south of the river, while his opponents received from the same section a combined vote of only fourteen. North of the river, Adair was able to muster only eight votes against eighteen for Thurston and Brown.[5]

[2] François A. Michaux, *Travels to the West of the Alleghany Mountains* [1801–1802] (Cleveland, 1904), in Reuben Gold Thwaites (ed.), *Early Western Travels* (Cleveland, 1904–1907), III, 212.

[3] Joseph H. Daveiss to Thomas Jefferson, March 28, 1806, in Jefferson Papers (Division of Manuscripts, Library of Congress).

[4] James Brown, a brother of John, had married a sister of Mrs. Clay.

[5] Kentucky *House Journal*, 1804, p. 30.

Rather than see a senatorship pass under control of the South Country, Clay decided to abandon Brown and lead his followers into the Thurston ranks. This he did with much skill, and Joel Watkins of Washington County was the only Brown supporter to join the friends of Adair. Thus the vote in the House was deadlocked at thirty and a Thurston majority in the Senate turned the tide.[6] By the "artful management of H. Clay," wrote Jack Jouett to Breckinridge, Adair was "worked out of the Election." Clay had "proved entirely too hard for Grundy in all the pinches." [7]

Concurrent with the struggle over the election of a United States senator, another and much more bitter battle was being waged over the attempt to repeal the charter of the Kentucky Insurance Company. During the session of 1802, a bill had been introduced in the legislature providing for the incorporation of this company. The apparent object of those who requested the charter was the organization of a company to insure boats and their cargoes on the Ohio and Mississippi rivers. The bill created neither great interest nor opposition and was immediately passed. When the new insurance company began its operations, the public became aware of the fact that the legislature had not created a mere insurance company but a bank. The charter contained a provision which permitted the company to issue, in unrestricted numbers, bills or notes which were made payable to the bearer.[8] Such bills immediately made their appearance, and Kentucky's first bank was in operation.

It does not stand to reason that the intelligent members

[6] *Ibid.*, 31.

[7] Jack Jouett to Breckinridge, December 24, 1804, in Breckinridge Papers.

[8] Littell (ed.), *Statute Law of Kentucky*, III, 25–31.

of the legislature were deceived by the wording of the charter. But as soon as the bank began to operate and frontier democracy registered a protest, numerous legislators who had assisted in passing the incorporating act assumed an attitude of indignation and charged the bank with deception. Western people distrusted banks and looked upon them as monsters preying upon the toiling farmer. The bank's declaration of a dividend of nearly 19 per cent [9] tended to confirm what was already believed.

Grundy mounted the crest of this wave of opposition and proceeded to direct its course. He toured the counties south of the Kentucky River, declaring that charters which had been secured through deception were void and should be declared so by the legislature.[10] That was in the year 1803, and since Grundy had moved to Nelson County, he was not a member of the House during that session. But the agitation which was created greatly disturbed the friends of the bank. In looking for a champion for their cause they found Henry Clay, a stockholder in the company and "an exceeding learned counsellor" in whom was found the "spirit of direction and eloquence." [11] His personal interest in the institution together with his known opposition to repeal of charters marked him as a potential defender of the bank. Even though he was absent from his county at the time, friends of the bank ran him for the legislature. Returning to Lexington on the last day of the election and finding excitement running high, Clay took the stump in opposition to repeal and was elected.[12] Clay's leadership tempo-

[9] Lexington *Kentucky Gazette*, January 10, 1804.

[10] *Life and Speeches of Henry Clay* (Philadelphia, 1859), I, 28.

[11] See William Littell's interesting chronicle of the struggle between Clay and Grundy, in Lexington *Kentucky Gazette*, January 23, 30, 1806.

[12] *Life and Speeches of Henry Clay*, I, 27.

rarily checked the tide in favor of repeal, but Grundy continued the agitation.

It has already been indicated that Nelson County returned Grundy to the legislature in 1804. His campaigning had yielded results and the South Country sent many representatives who, according to the friends of the bank, sat "like staring statues, too ignorant to comprehend one word that fell from their leader, and too wise to utter a single sentence themselves." [13] This group, led by one who was "profoundly skilled in the art of intrigue" and "exceedingly personal in his political motives," [14] struck terror into the ranks of the friends of the bank.

In order to forestall an attempt to repeal the charter, the bank's supporters in the Senate proposed an amendment. The amount of notes issued was not to exceed the total assets of the company, and should the provision be violated, the president and directors were to be personally responsible for the redemption of the excessive notes.[15] When the bill reached the House, Clay became its sponsor and Grundy led a losing fight in opposition.

Grundy was not opposed to restriction but desired to go so far as to destroy the whole institution. From his position as leader of the opposition he "brandished the weapons of indignation against every opposing obstacle, with the most pernicious and obstinate enthusiasm." The company was a monster which under disguise " 'had swallowed up every shilling in the State.' " If the people wished to know the "source of their afflictions," they need look no farther than the bank in Lexington.[16]

[13] "A Poor Farmer," in Lexington *Kentucky Gazette*, January 29, 1805.

[14] *Ibid.*

[15] Kentucky *House Journal*, 1804, p. 100.

[16] Version of Grundy's attack given by "A Poor Farmer," in Lexington *Kentucky Gazette*, January 29, 1805.

Showing little knowledge of finance and no regard for the sanctity of charters, Grundy, "a mighty man of words," used his ability as an orator to good advantage. His ignorance of the subject, charged his opponents, gave him "an overweening confidence, which his party mistook for the result of sound principles." [17]

Clay, in whom the friends of the bank saw "a heart as mild and honest as ever glowed in the human bosom," [18] held his ground against Grundy's violent thrusts. A charter once granted, he argued, could not be legally annulled and an attempt to do so would make the state of Kentucky "a reproach among all the nations of the earth." Kentucky had ceased to be a wilderness and had outgrown the old system of exchange which had sufficed in frontier days. Agriculture, commerce, and industry all demanded a sufficient circulating medium.[19]

Clay's defense of the bank resulted in the passage of the amending bill by a close margin of two votes.[20] Grundy then moved further to amend the charter so as to provide that (1) all notes must bear the date of issue; (2) the notes already in circulation be canceled when returned to the company; (3) stockholders be made liable for all notes issued in the future and their private property pledged for the redemption of the same; and (4) the president and directors be required to take an oath to fulfill their duty as provided in the amended charter and that any violation of that oath be punished by a fine of $500.[21] The same lineup which passed the other amend-

[17] *Ibid.* [18] *Ibid.*

[19] Littell, in the Lexington *Kentucky Gazette*, January 23, 1806. See also numerous letters in the Breckinridge Papers under dates, December, 1804–January, 1805.

[20] Kentucky *House Journal*, 1804, p. 101; Littell (ed.), *Statute Law of Kentucky*, III, 213

[21] Kentucky *House Journal*, 1804, pp. 101–102.

ment defeated Grundy's proposal by the margin of two votes.

The bank had been saved and its friends were jubilant. "I am happy," wrote James Brown, "that the Bank has had means of resisting the attacks of that unprincipled demagogue Grundy." [22] "Go home, sir, to your pillow," another bank friend counseled Grundy, and "there meditate in silence upon the misguided folly and false ambition, which have marked the political career of your early life. Learn how to be animated with the honorable desire of purchasing a just renown, by promoting public happiness." [23]

Grundy's skill as a political leader alarmed the older politicians. Friends warned Breckinridge that his opponent in the next senatorial election would probably be the "indefatigable Felix." Apparently the warning was taken seriously and in 1805 Breckinridge made an attempt to get Grundy out of Kentucky by having him appointed a United States commissioner for Upper Louisiana. The position of commissioner had been given out before Breckinridge's request reached Secretary Albert Gallatin. A Louisiana agency was offered but declined by Grundy.[24]

Grundy went home, not to meditate upon his "folly" but to reorganize and strengthen his forces for a renewed attack upon the "monied aristocracy." Although the winner in the first contest, Clay realized that the narrow margin of victory would not permit him to rest upon his

[22] James Brown to Clay, March 12, 1805, in Henry Clay Papers (Division of Manuscripts, Library of Congress).

[23] "A Poor Farmer," in Lexington *Kentucky Gazette*, January 29, 1805.

[24] R. H. Grayson to Breckinridge, November 18, 1804; Breckinridge to Gallatin, April 25, 1805; Gallatin to Breckinridge, July 11, 1805, in Breckinridge Papers.

laurels. There was no assurance of future success unless the masses of the people could be convinced of the service rendered by the bank. An opportunity for the institution to prove its worth presented itself in connection with the collection of the land tax.

Hundreds of Kentucky farms had been sold as a result of failure to pay the Federal land tax. A scarcity of specie plus negligence and a general hostility toward taxes had brought about this unhappy situation. "Cursing and Swaring" availed nothing and the period during which farms could be redeemed was about to expire. The tax supervisor, James Morrison, was proclaiming through both broadsides and the press that unless the people acted at once they would be "irretrievably Ruined." [25] Clay saw his opportunity. The bank came to the rescue of the stricken farmers by advancing $15,000 in loans.[26]

Although the "generosity" of the bank undoubtedly increased its friends, the general hostility was not allayed. Grundy's followers refused to admit that the mere rendering of a service justified the continuation of an institution in a position from which it could destroy the people at will.[27]

Both sides were confident of victory when the legislature assembled in November, 1805. Grundy immediately proposed that the bank's charter be repealed and the battle was on. For two days Clay and Grundy alternately occupied the floor. "The display of talent by each was so brilliant" that the hall was crowded beyond capacity by

[25] Kentucky broadsides, January 3, 1805 (Division of Manuscripts, Library of Congress).

[26] John Ketcheval to Breckinridge, February 2, 1805, in Breckinridge Papers.

[27] Lexington *Kentucky Gazette,* February 26, 1805.

huge throngs of spectators. Business in the Senate came to a standstill as senators deserted their seats in favor of standing room in the House.[28]

"Exerting his utmost eloquence," Grundy explained that banks were "inimical to a free Government" since they drew money from the hands of the masses and concentrated it in the hands of a few. No law which purported to grant such an exclusive privilege could be constitutional. A fraud had been committed and the people had been deceived. In view of that fact the charter had been deprived of all sanctity, and the legislature not only possessed the right but was bound by a sense of duty to repeal that privilege which had been fraudulently secured.

The bank, retorted Clay, had a vested right in its charter and any attempt to repeal was not only improper but unconstitutional. Once a charter was granted, the legislature possessed no power to repeal it, and the corporation could continue to enjoy the privileges of that charter until it expired.[29] But Clay's argument was rendered ineffective by the number of votes controlled by Grundy. The bill passed by a vote of thirty-seven to nineteen, and also received a majority in the Senate.

The merchants of Lexington were "sorely troubled and their countenances fell." The prejudice of the frontier under the leadership of the "indefatigable Felix" had destroyed the prosperity of the Bluegrass. But hope was slightly revived when Governor Christopher Greenup

[28] George D. Prentice, *Biography of Henry Clay* (New York, 1831), 26.

[29] William Stevenson to Breckinridge, January 5, 1806, in Breckinridge Papers; *Life and Speeches of Henry Clay*, I, 27; Washington *Globe*, March 16, 1840.

exercised his right of veto. The charter, he declared, had been granted for a period of fifteen years and it was under that condition that people had invested their money in the corporation. Repeal would not only ruin the investors but would retard the progress of a state whose soil was "of unequalled fertility" and whose commerce and industry were rapidly expanding.[30]

Grundy immediately moved that the bill be passed over the Governor's veto, and the House, irritated by executive interference, repassed the bill by a vote of forty to eighteen. Gloom again descended upon the friends of the bank. No one doubted the success of the bill in the Senate.

But Clay had one more trump. He recalled the Green River band's record as logrollers and how, on a previous occasion, they had deserted Grundy when their own interests were at stake. He quickly framed and introduced in the House a bill to coerce payment of the long-due Green River debt. The Green River representatives, facing ruin if Clay's bill became a law, reversed their former position, rushed to the Senate and lobbied against the passage of the repeal bill. In the face of this lobby, the enemies of the bank were unable to muster the constitutional majority and the charter was saved.

While the repeal bill was in the hands of the Governor, the Senate had already turned its attention to a new bank bill introduced by Green Clay. Apparently the author hoped to eliminate the opposition to banks by putting the state in the banking business. His proposal called for a state bank with a capital stock of $600,000, one half of which was to be subscribed by the state.[31] The bill passed

[30] Kentucky *House Journal*, 1805, pp. 83–87.

[31] Fielding L. Turner to Breckinridge, December 20, 1805, in Breckinridge Papers.

the Senate and when it reached the House, Grundy revised it to suit himself and became its advocate.

In sponsoring the state bank bill, Grundy did not necessarily abandon his former position. His principal objection to the Lexington bank was its exclusive privileges. The new bill as revised by Grundy conferred no privilege upon any group. Clay opposed the bill because the notes of the proposed bank were to be issued on the credit of the state. This new conflict between Clay and Grundy so confused the House that it refused to pass the bill in either form.

"It must be confessed," chuckled an enthusiastic supporter of the Lexington bank, "that the redoubtable Knight of Nelson, battered the poor company, with as much success as the Knight of La Macha battered the wind mill. . . . The one mistakes a wind-mill for a giant, whose conquest he is resolved on effecting; the other mistakes a poor Insurance Company for a bank of aristocratical monopolisers, and vows its destruction. To triumph would lead to the object of their fondest ambition. The Knight of La Macha would acquire a ready admittance to the palace of his Dulcima [*sic*] del Toboso; and the Knight of Nelson bye and bye, to a seat in con—ss." [32]

During this, the first of his important political debates, Grundy exhibited many of the characteristics that marked his later career. Attractive in person and pleasing in manner, he made few enemies, and even they found it difficult to resist his earnest entreaty for their compassion. Through a keen sense of humor and a wit that "sparkled," he caused his opponents to join in the laughter "with heart felt good will although the identical

[32] "A Poor Farmer," in Lexington *Kentucky Gazette*, March 5, 1805.

laugh . . . [was] intended to render . . . them ridiculous." [33] This humor, a veritable armor in many a political debate, was no less in evidence in old age.

"Happy at a retort" and "skillful at a thrust," he became one of the foremost debaters of his day. He was at his best in a "cut and thrust" debate, but he would never "leave the arrow in the wound." Never a deep thinker, he therefore never became a thorough student of state affairs. There is some truth in the accusation of his opponents that his success as a public speaker came largely through his skill in confusing ideas with a view to blinding his listeners to all defects and causing them to "mistake blemishes for perfection."

In young manhood Grundy showed possibilities of aggressive and effective leadership, but there were many who doubted his sincerity. However, the aggressiveness which characterized his early career gave way to a greater degree of caution with the passage of years; yet he never lost his vigor and enthusiasm. Suave and affable in both public and private life, he spent much time in smoothing out the rough places on the political scene. A profound judge of human nature, smooth in his intercourse even to the point of intrigue, he lost nothing in comparison with the most crafty "political Reynard" of his day. In his "Talent for Plot and Management," one contemporary saw in him a marked resemblance to Cardinal de Retz.[34] But whether in "the Senate or the social circle, on the hustings or in the forum," all recognized him as the "same bland, dignified and agreeable gentleman."

[33] Frankfort *Kentucky Commonwealth*, quoted in the Randolph (Tennessee) *Recorder*, June 28, 1834.

[34] Archibald D. Murphey to John Haywood, August 18, 1822, in William Henry Hoyt (ed.), *The Papers of Archibald D. Murphey*, North Carolina Historical Commission *Publications* (Raleigh, 1914), I, 253 ff.; Nashville *Whig*, December 23, 1840.

Kentucky recognized the ability of her two rising young political leaders and rewarded them. In November, 1806, the legislature elected Clay to the seat in the Senate which had been vacated by the resignation of John Adair who was serving out the unexpired term of John Breckinridge. In December of the same year, Grundy was commissioned as judge of the Court of Appeals of Kentucky, and in April, 1807, was promoted to the position of chief justice of Kentucky's highest tribunal.

But before Grundy had time to become established in his new position, he suddenly resigned in the latter part of 1807 and moved his family to Nashville, Tennessee. He had come to realize that the meager salary which he received as chief justice was not sufficient to support his growing family. It is also quite probable that he disliked the dull life a justice was forced to lead. When news drifted in concerning the great advantages that awaited the settlers who migrated to Tennessee, he saw a means of escape.

Chapter III

"WAR OR HONORABLE PEACE"

THE frontier town of Nashville numbered only a few hundred souls in 1807 but it was growing. In 1802 a traveler found the town to consist of about one hundred and thirty houses scattered over a space of twenty-five or thirty acres. The inhabitants had no water except that drawn from the Cumberland River, but one determined citizen was seeking to alleviate this deficiency by digging a well through the rock foundation upon which the town was built. Fifteen or twenty shops supplied the residents with goods shipped in from Baltimore and Philadelphia, but at prices in advance of those charged at Lexington. The principal crop of the surrounding farms was cotton, which was shipped down the river to New Orleans.[1] Since the treaty with Spain in 1795 had greatly reduced the Indian menace, immigrants had been pouring through the mountain passes and had brought to the young state of Tennessee a boom which continued until 1812.[2] Nashville's increasing prosperity was attested by the fact that in 1805 its residents contributed a sum of $1,300 to witness the ascension of a balloon.[3]

[1] Michaux, *Travels to the West*, 250–52.

[2] Thomas Perkins Abernethy, *From Frontier to Plantation in Tennessee* (Chapel Hill, 1932), 198.

[3] Samuel Cole Williams (ed.), "Nashville as Seen by Travelers, 1801–1802," in *Tennessee Historical Magazine* (Nashville), 2nd Ser., I (1931), 187.

By the time Grundy took up his abode in Tennessee, Nashville could boast of at least two hundred homes and numerous taverns, stores, and shops; a "handsome brick built courthouse" adorned this "capital of Davidson County." The town was still importing its goods from Baltimore and Philadelphia by way of the Ohio and Cumberland rivers, and the prices were almost a third higher than those charged at New Orleans. Yet the travel-worn visitor could secure board at the Talbot Hotel, Nashville's finest, at $4.00 a week.[4]

It was undoubtedly the rumor of this prosperity and the legal and political opportunities which it held out to an ambitious young lawyer that prompted Grundy to move his residence to Tennessee. On January 7, 1808, the *Impartial Review* carried a notice that he had settled in Nashville and would begin the practice of law in the "Superior Courts of West Tennessee, the Federal Courts holden in Nashville, the county courts of Davidson, Sumner, Williamson and Rutherford." [5]

The second war with Great Britain was not far distant when Grundy established himself in Tennessee. Embargoes and impressments were common topics of discussion even in the West. Congress, it was believed, had been too lenient with the foreign powers. Such leniency could scarcely be understood in the West where men gave no quarter nor asked any. It was this disapproval of the actions of Congress which resulted in the placing of many new members in the halls of the Twelfth Congress. Among them was Felix Grundy of Tennessee.

Colonel Robert Weakley, who had represented West Tennessee in the Eleventh Congress, declined to offer for

[4] *Ibid.*, 192–93.

[5] Nashville *Impartial Review and Cumberland Repository*, January 7, 1808.

re-election and Judge Grundy announced his candidacy early in 1811. His announcement met with much enthusiasm and some hostility. The *Democratic Clarion* immediately took up his cause and continued to keep him before the public. Tennessee demanded action in Congress. In addition to the foreign situation, which they desired to see corrected, the people wished a rapid extinction of Indian titles and the opening up of trade connections with Mobile. Congress, thus far, had failed to appreciate the problems of the West, and Tennessee needed a talented representative who could talk in her interest. Most any man could attend Congress but what was needed was a "speaking member." This qualification Grundy undoubtedly possessed. Being both lawyer and judge, he would be capable of detecting the imperfect points of the law and able to assist in correcting them.[6]

The opposition to Grundy came from several different sources. In the first place, he was a lawyer and there was a feeling of distrust of lawyers among some western people. Also he had been a resident of Tennessee for only a few years and probably did not yet understand her problems. Finally, he had no military record. The frontier idolized the military hero. Both of Grundy's opponents were soldiers.

General Isaac Roberts made the race on a platform favoring the acquisition of western lands by extinguishing Indian titles. This would give sufficient lands to satisfy all claims. He favored also opening up a wagon route from Muscle Shoals to the Tombigbee River and thus making connection with Mobile. He, like Grundy, was a Republican. However, there was little in his past life which would indicate that he would be a successful legis-

[6] Nashville *Democratic Clarion and Tennessee Gazette,* January 25, 1811.

lator. A writer in the *Democratic Clarion* declared that the General's only electioneering point was that he had fought and "slain Indians in abundance" and delighted in "blood and carnage." [7]

On June 23 a group of citizens, said to represent thirteen counties of the district, met at the Bell Tavern in Nashville and nominated General James Winchester. As soon as the proceedings of the meeting became known, Grundy addressed an open letter to the voters of West Tennessee in which he averred that the meeting at Bell Tavern was not a public one. Those who had attended did so by invitation. No list of those present had been made public, and in his judgment "no small part were Federalists." He was unable to see why this select few should possess the right to nominate for the people. Intelligent people needed no dictators; they were thoroughly capable of making up their own minds.[8] This early expressed opposition to the caucus was maintained throughout his entire career.

Winchester, Grundy thought, would not accept the nomination since the General had told him in writing he would not be a candidate. This, he charged, the caucus knew when it nominated him. The sole purpose of the whole affair was to pull from the Grundy ranks some of the friends of Winchester. He further suspected that there was a plan developing to place several candidates in the field with the hope that anyone but him would win.

To all who opposed him Grundy pointed out that he had resided in Tennessee about four years, which period met the constitutional requirement. During those four years he had made a study of his adopted state and her conditions. The question of residence was only a blind to

[7] *Ibid.*, July 23, 1811. [8] *Ibid.*, July 3, 1811.

conceal the main opposition which was coming from the Federalists who opposed his Republican principles. Naturally that discredited group was trying to hide behind other issues.[9]

Barclay Martin, who had acted as chairman of the Bell Tavern meeting, made an immediate reply. Only two of the group were Federalists. Had the caucus not been frequently used to nominate a candidate for president? Certainly then it must be a suitable way to nominate for Congress. If anyone had played the part of a dictator it had been Grundy for he had spent two or three years eliminating by agreement all who would likely give him any opposition.[10]

Grundy continued to call for the publication of the list of those who had attended the caucus but it did not appear. Martin was challenged to say who the acknowledged Federalist was *other than himself*. Who were the representatives from Sumner, Smith, Franklin, or Williamson counties anyway? None had been located.[11]

All the while Winchester had kept quiet. A part of the time he was out of the state. His friends as well as the enemies of Grundy were, nevertheless, determined that he should be a candidate. A declaration was prepared and signed by more than forty persons, declaring Winchester to be a candidate and pledging themselves to support him. Questionable tactics, embarrassing to the friends of Winchester, seemed to have been used, for among the signers appeared fictitious names and those of small boys.[12] If Winchester made any canvass there seems to be no record of it. One "Elector" called upon the people to elect General Winchester for the simple reason that he was not a candidate. The General, however, ran third; Grundy was

[9] *Ibid.*
[10] *Ibid.*, July 9, 1811.
[11] *Ibid.*, July 16, 1811.
[12] *Ibid.*, July 25, 30, 1811.

elected by a plurality of more than five thousand votes.[13]

A "notable group of young, able, and spirited men" [14] —Henry Clay, Felix Grundy, John C. Calhoun, William Lowndes, and others—assembled at Washington for the meeting of the Twelfth Congress, and the political atmosphere witnessed a change. A new school of Republicans had made its appearance, and it was thoroughly disgusted with half measures. Grundy expressed the sentiment of the group when he wrote to the Governor of Tennessee that "something must be done, or we shall loose [*sic*] our respectability abroad and even cease to respect ourselves." [15] There was war in the air. Both Federalists and conservative Republicans were forced to stand aside while the new spirit swept Henry Clay into the speaker's chair. This brilliant figure from the West, who had already served two brief terms in the Senate, was still in his early thirties.

The composition of the Foreign Relations Committee gave further evidence that the new spirit would dominate. This committee contained such men as Peter B. Porter, Calhoun, and Grundy, along with the more conservative members such as John Randolph.[16] To this committee was referred the portion of the President's message dealing with foreign relations. Madison called attention to Great Britain's failure to revoke her Orders in Council upon being informed of the repeal of the French decrees. Instead of revoking, she seemed to enforce them more strictly. Accordingly, the President recommended (1) filling up the ranks of the standing army and prolonging

[13] *Ibid.*, July 16, October 1, 1811.

[14] William Cabell Bruce, *John Randolph of Roanoke* (New York, 1922), I, 368–69.

[15] Grundy to Willie Blount, November 18, 1811, in *Wilson's Knoxville Gazette*, December 18, 1811.

[16] *Annals of Congress*, 12 Cong., 1 Sess., 343.

their periods of enlistment; (2) raising an auxiliary force for a more limited period of time; (3) accepting the services of volunteer corps; and (4) placing the militia in an advantageous condition.[17]

While the committee had the message under consideration, Grundy revealed his feelings to Andrew Jackson. That group had made up its mind to report in favor of war in the near future, but for the present to prepare for it. Personally, Grundy preferred a pledge to use the forces recommended by the President before raising them, yet he could not agree to enter a war unprepared. If the House stood by the committee, there would soon be either a war or an honorable peace.[18]

In its report to the House, the committee reviewed the condition of affairs and offered six resolutions. The first recommended a complete filling up of the military ranks already authorized by law and a prolonging of the periods of enlistment. In order to encourage enlistments a bounty in land should be offered in addition to the regular pay. Second, an additional force of ten thousand regulars should be immediately raised for a period of three years. Third, the President should be given authority to accept the services of fifty thousand volunteers. These would be organized, trained, and held in reserve. Fourth, the President should be given authority to call out such detachments of the militia as he deemed necessary. Fifth, all naval vessels should be made seaworthy and fitted for service. Finally, it was expedient to permit private merchant vessels to arm in self-defense.[19]

[17] James D. Richardson (ed.), *A Compilation of the Messages and Papers of the Presidents, 1789–1902* (Washington, 1903), I, 491 ff.

[18] Grundy to Andrew Jackson, November 28, 1811, in John Spencer Bassett (ed.), *Correspondence of Andrew Jackson* (Washington, 1926–1933), I, 208.

[19] *Annals of Congress*, 12 Cong., 1 Sess., 377.

Porter of New York, the chairman of the committee, entered upon a lengthy explanation of the report. The committee, he advised, no longer entertained hopes that the difference with Great Britain could be settled by negotiation. Apparently, she would try us to the limit. The question was whether we could afford to go to war to protect our rights. It was the unanimous opinion of the committee that we could afford to do so if it became necessary. Porter firmly believed that the United States should resort to war rather than submit to the Orders in Council even for a short period. He was conscious that some difference of opinion existed as to the time war with Great Britain should begin. Everyone knew the navy was weak but that weakness could be offset by the strength of the army. The United States could more than replace the loss in her ocean commerce by depriving the British of valuable land commerce. A well-prosecuted land war plus private enterprise at sea would compensate us tenfold for the loss in our commerce. He insisted that the purpose of the resolution was to prepare the United States for war, and the committee recommended that it be "vigorously and effectively" prosecuted. Those who were opposed to such a course should vote against the resolution, for an army should not be raised unless it was to be used. Nevertheless, he did not favor plunging into a war until we were prepared.[20]

The committee's spokesman was Grundy. He considered the second resolution the vital part of the report and hoped that the opposition would not fail to express itself fully.[21] John Randolph then demanded to know for what purpose those soldiers were to be used. He believed the people of the United States were able to defend them-

[20] *Ibid.*, 414 ff. [21] *Ibid.*, 422.

selves, but was sure they did not care to depend upon a band of mercenaries and pickpockets. He further desired to examine the motives of the committee.[22]

Grundy expressed surprise that Randolph should question motives when he had not only attended all the sessions of the committee but had seen the report before it was presented to the House. His colleagues were aware of the great responsibility resting upon them. They were conscious that their decision in favor of preparation would likely lead to bloodshed. He implored the members of the House to put aside party animosities and present an undivided front to the enemy. A warning finger was pointed at the Republican members, and they were asked to recall that not many years previous the Federalists had dominated Congress. They had been hurled from their seats by a tide of Republicanism principally because they had favored a large standing army for executive patronage rather than an army for defense. "If your minds are resolved on war," he continued, "you are consistent, you are right, you are still Republicans; but if you are not resolved, pause and reflect, for should this resolution pass, and you then become faint-hearted, remember that you have abandoned your old principles, and trod in the paths of your predecessors." At this point Grundy seems to have made a rather unusual distinction between a Republican army and one that was not Republican. The army that was intended to fight was Republican; a domestic army could never be classed as such. "According to my view of this subject," continued Grundy, "we now stand on the bank; one movement more, the Rubicon is passed, we are in Italy, and we must march to Rome" If there were those present who were not willing to go all the way, then he besought them not

[22] *Ibid.*

to start. No desertions were desired after the storm began.

The Tennessee Representative next passed to the reasons which prompted the action of the committee. Our vessels were captured and condemned by the British regardless of whether or not they carried contraband to France. He could see in the British actions a jealousy of the growing commerce of the United States. There could be no justice in the British demands that we must open continental markets for her. Indeed, from the attitude of the British it appeared that they recognized neither law nor justice. Power and power alone had become the standard by which rights were to be measured. Whether to use force or to allow our maritime rights to be subjected to the "arbitrary and capricious rule" of Great Britain was the momentous question before Congress. As for himself, Grundy would never advocate submission to regulation by any nation.

The speaker was a western man. He was much more vexed at the supposed intrigues which the British were carrying on with the Indians than with the destruction of ocean commerce. War had already begun on the frontier and the British, he boldly asserted, were connected with it. Would those savages, who realized they were holding their lands as mere tenants of the United States, have dared make war without British support? Grundy thought not. Yet much American blood had already been shed. The people of the West were ready and eager to avenge the murder of their brethren.

The United States had also made a pledge to France to keep the Non-importation Act in force against Great Britain. The result of this act had been to force men to resort to smuggling. The only way to make men virtuous in either politics or private life was to "lead them not into temptation." But nonimportation could not be given up

now. This, Grundy added, "and our plighted faith to the French Government, have tied the gordian knot; we cannot untie it; we can cut it with the sword." [23]

This statement was a political mistake. The Federalist press immediately called upon all the people to witness that, in the words of Grundy himself, we were to submit to taxation in all forms in order to redeem a pledge to France. The knot had been tied! We could not untie it but must cut it with the sword! [24]

There would be a positive advantage in a war with Great Britain, Grundy explained. Drive the British from the continent and they could no longer intrigue with the Indians. "I am willing," he continued, "to receive the Canadians as adopted brethren; it will have beneficial political effects; it will preserve the equilibrium of the Government. When Louisiana shall be fully peopled, the Northern States will lose their power; they will be at the discretion of others; they can be depressed at pleasure, and then this Union might be endangered—I therefore feel anxious not only to add the Floridas to the South, but the Canadas to the North of this empire." [25]

In closing Grundy had sounded a new note which was to become the theme song of the expansionists of 1812. He had no special concern for the political status of the northern states, but was maneuvering for the support of that section in carrying out the expansionist ideas of the South and West. Southern domination of the government during the ante-bellum period testified to the truth of his prophecy.

If war came, responded Randolph, it would be no war of self-defense but one "of conquest, of aggrandizement,

[23] *Ibid.*, 422 ff.

[24] Hartford *Connecticut Courant*, February 26, 1812.

[25] *Annals of Congress*, 12 Cong., 1 Sess., 426–27.

of ambition; a war foreign" to the interests of not only the United States but all of humanity. How was it that in 1798 the Republicans were unwilling to see an army placed in the hands of the revolutionary heroes, Hamilton, Pinckney, and Washington, and at present favored a large army with no hero to handle it? Was there a greater provocation at the present than in 1798? As for himself, he would not agree that the provocation was even as great. The party that had favored the large army of 1798 fell because of intoxication "with their own greatness," and if the same procedure should be pursued at the present it would mean the political death of those who supported it.[26] Randolph's threat of political death fell on deaf ears. Those militant young Republicans knew their constituents and had no fear of being turned out of office for supporting an aggressive foreign policy.

Randolph next attacked Grundy's statement which connected the British with the Indian hostilities. He desired more proof on the subject than just an assertion by the gentleman from Tennessee. He considered the insinuation of the "grossest kind—a presumption the most rash, the most unjustifiable." If Grundy could prove the truth of his statement, then Randolph would immediately abandon all opposition and be ready to march to Canada. He then sarcastically added that he fancied he saw the "Capitol in motion towards the falls of Ohio—after a short sojourn taking its flight to the Mississippi, and finally alighting on Darien." Then resuming his air of seriousness he exclaimed that the people would never submit to taxation to wage a "war of conquest and dominion." [27]

To the rescue of Grundy came John C. Calhoun, and his first speech in the House foretold a great future. He

[26] *Ibid.*, 441–42. [27] *Ibid.*, 445 ff.

viewed the recommendation of the committee as a preparation for war. "Indeed, the report could mean nothing but war or empty menace." It was not Grundy who made this a question of war. The resolution itself did that since an addition to the regular forces would be improper except as a preparation for war. There might be an excuse for not entering a war but certainly there could be none for unpreparedness.[28]

Richard Stanford of North Carolina joined Randolph in the attack upon the war group. How Grundy could declare that peace was justifiable in 1798 and war in 1811 was more than he could comprehend.[29]

The Federalists kept rather quiet and allowed the two wings of the Republicans to fly at each other's throats. The debate dragged on for many days with Randolph lamenting that only he and a few others had remained true to the old Republican principles.[30] But the war party was determined that war must come and in order to prepare for it the adoption of the resolutions was necessary. Caustic words from the tongue of Randolph were ineffective. One by one the resolutions were adopted by majorities which averaged near one hundred. The Boston *Repertory* believed in the sincerity of those who were preaching that we were on the eve of war. But who were they? All were backwoodsmen but one, and he was "a crazy man from Maryland." [31]

That Grundy was sincere there can be no doubt. On December 24 he wrote to Jackson: "I firmly believe that G. Britain must recede or this Congress will declare war. . . . If war is not resorted to, one thing is certain to my mind, this nation or rather their representatives will be

[28] *Ibid.*, 475 ff.
[29] *Ibid.*, 511 ff.
[30] *Ibid.*, 525.
[31] Boston *Repertory and General Advertiser*, December 24, 1811.

disgraced."[32] Grundy was no more sincere than his constituents. The impatient Jackson wrote asking if war would not be declared. Others began to offer their services to the government. Colonel John Cocke of Montgomery County wrote Grundy a letter, the patriotism of which was equaled only by its poor English and bad spelling, offering to raise a company of two or three hundred men for immediate service. Opposition papers copied the letter, italicizing all the misspelled words.[33] Were not the English and the spelling proof that those who preached war were only backwoodsmen?

While the House spent its time debating on resolutions, the Senate was working on a military measure. With the hope of embarrassing Madison, William B. Giles, the anti-Administration chairman of the Senate Foreign Relations Committee, sponsored a bill which exceeded the recommendation of the President. Twenty-five thousand men were to be added to the regular army for a period of five years. A complete list of officers was to be appointed, even though there was no certainty that the ranks could be filled.[34]

When the bill appeared in the House, several amendments were immediately offered. It was agreed that officers for six regiments only should be appointed until the ranks were three fourths filled, and that these should hold office at the pleasure of the President. William Bibb of Georgia wished that the President be authorized to appoint the officers for the other seven regiments as soon as that requirement had been met.[35] Grundy was immediately on

[32] Grundy to Jackson, December 24, 1811, in Andrew Jackson Papers (Division of Manuscripts, Library of Congress).

[33] Charleston *Courier*, June 23, 1812.

[34] *Annals of Congress*, 12 Cong., 1 Sess., 34 ff.; Henry Adams, *History of the United States of America* (New York, 1891), VI, 147.

[35] *Annals of Congress*, 12 Cong., 1 Sess., 608–11.

his feet. He objected. It was not his plan to take any part in the discussion but he feared the best interests of the country were about to be sacrificed. He had a great amount of confidence in the present Executive but there was no certainty that those of the future could be trusted.[36] Care, he felt, should be exercised in setting precedents. If he had any objection to the provisions of the Constitution, it was that they gave too much power to the executive. He, likewise, was opposed to placing upon the President the responsibility which should remain with Congress. The Senate had thrown an army upon the House. The House should not in turn throw it upon the President.[37] Sixty-six votes rallied to Grundy's appeal and the Bibb amendment was rejected. The bill passed by a vote of approximately three to one with several Federalists voting in the affirmative.[38]

The Senate immediately struck out the amendments and returned it to the House. The advocates of war became uneasy. The Republican party had already split and was dependent upon the Federalists to cast deciding votes. If a split now developed between the war groups in the House and the Senate the result would be fatal. In order to avoid such a rupture, Grundy proposed that the House recede from its amendments and accept the Senate bill.

[36] Grundy had fears for the future of the presidency. When a friend remarked to him that both Clay and Calhoun were certain to reach the presidency, he replied, according to Alexander Bowie: "'I think you will find yourself mistaken—neither Mr. Calhoun nor Mr. Clay will ever be President. . . . I now predict further, that after the last Revolutionary character, who is qualified for the station, shall have filled the office, a first rate statesman will never attain it—such a man will never sell himself to a party; and therefore can never be elected.'" Bowie to Calhoun, April 13, 1847, in J. Franklin Jameson (ed.), *Correspondence of John C. Calhoun*, in American Historical Association, *Annual Report*, 1899, II, 1111.

[37] *Annals of Congress*, 12 Cong., 1 Sess., 612. [38] *Ibid.*, 612–13, 617.

Nothing could be gained by a verbal combat with the other house. It would only create the impression both at home and abroad that Congress had rather speak than wage war. The only difference of opinion between the two bodies concerned the appointment of officers and he was unable to see any good reason for allowing this small additional expense to block the passage of the bill.[39] Calhoun added his appeal, suggesting that if Congress were serious about going to war, it "ought not to stickle about an expense of twenty or thirty thousand dollars." A vigorous war, he asserted, would be less expensive in the end than an ineffective one. The expense of a prolonged debate in Congress would exceed the cost of the additional officers.[40]

Randolph made a sarcastic thrust. He did not believe it was possible to raise twenty five thousand men, but if it should be done, would the House form a "Committee of Public Safety" or "depute the power to the Speaker . . . to carry on the war?" It was ridiculous for the House to talk of handling troops when it had no power over them, after they were voted, except to make appropriations for supplies. A standing army to him was not only "uncongenial, but deadly, to the spirit of a free Government." [41] The House, nevertheless, followed the lead of Grundy and Calhoun and receded from its principal amendments.[42]

Now that an army had been voted and no war declared, what was to be done with it? Randolph, in a mood half serious and half scornful, proposed that the troops be put to work. The government should not be burdened with the expense of supporting several thousand loafers while it spent immense sums all over the country for labor. A

[39] *Ibid.*, 704.
[40] *Ibid.*, 706–707.
[41] *Ibid.*, 707–708.
[42] *Ibid.*, 716–17.

little work, he asserted, would give the soldiers a good appetite, keep them healthy, and prevent them from "having recourse to intoxication." He therefore presented a resolution authorizing the President to use the soldiers to dig canals and construct public roads. Robert Wright of Maryland jumped to his feet and protested against the House even allowing such a resolution to lie on the table. "It goes directly to convert the proceedings of this House, on the bill to raise 25,000 men, into a farce," he exclaimed. The House had patiently listened while Randolph opposed the bill, but to attempt now to make a joke of the action of the majority was too much.[43]

Grundy deprecated the introduction of such a resolution, but since it had been done, he would suggest that it be considered. Until that should be done he feared it would be brought forward from day to day and further delay business. But in making such a statement he did not want to be misunderstood. It was his desire that the world should know that this military force was being raised for the purpose of fighting, not to dig ditches and build roads. The resolution was considered and rejected by a vote of 102 to 15.[44]

In the meantime, Porter, from the Foreign Relations Committee, had on December 26 introduced a bill which would authorize the President to accept the services of certain volunteer corps. There were two principal points for debate: could these volunteer corps be used outside the United States for carrying on an offensive war, and should the President or the individual states select the officers? George Poindexter of the Mississippi Territory favored giving the President the power to call out these volunteer corps for any purpose and at any time. Porter believed such an act would be unconstitutional. Grundy

[43] *Ibid.*, 719–21.

[44] *Ibid.*, 723–24, 727–28.

knew it would be. Congress could not confer upon the President powers which were denied to him by the Constitution. It was Grundy's opinion that the militia should be left within the states for protection and thus all regulars could be relieved from that duty.[45]

William Widgery of Massachusetts thought the gentlemen were misconstruing the word "militia." These volunteer corps would not be militia but would be placed under the same rules and restrictions as other units of the army. Richard M. Johnson of Kentucky, however, thought the troops raised by the militia officers would be militia until actually on the march under army orders. As to the officers of these units, he favored their appointment by the states. The President already had his hands full in appointing officers for the regular army.[46] Langdon Cheves of South Carolina brought in a new argument. The power to use the militia in offense was not specifically given to the President by the Constitution, but it *was found* in that document. For the purpose of making war ours was a national government, not a federative one. Therefore, the right to make war gave Congress the power to make use of any person or group of persons.[47] Clay agreed with Cheves that Congress had the right to regulate the militia when in the service of the United States. To those who argued that the militia could be used for defensive purposes only, he would say that the proposed war was one of defense. The sending of militia into Canada for the purpose of weakening the enemy would be using them in defense of the country. As to officers, he too believed they should be appointed by the states.[48]

The bill passed by eighty-seven to twenty-three,[49] but no decision had been reached concerning the constitu-

[45] *Ibid.*, 730–31. [46] *Ibid.*, 731–32. [47] *Ibid.*, 735.
[48] *Ibid.*, 743–45. [49] *Ibid.*, 773, 800–801.

tional point in controversy. The corps were to be officered by the states. Grundy desired to see the government classify and arm the militia, but the House rejected the proposition.[50]

Grundy's enthusiasm for an army did not extend to the other branch of the service. A big navy had little appeal for the West. It would be utterly useless for the fighting of Indians and of little value in an invasion of Canada or Florida. The protection of commerce on the seas was never to Grundy as vital a question as the defense of western homes. When Cheves, from the Navy Committee, requested the House to pass an appropriation to increase the navy substantially, Grundy remained silent. But when the vote was taken both he and Johnson voted in the negative. Porter, Cheves, and Calhoun joined with the Federalists in favor of the measure but the strength of the West nullified their efforts.[51]

The Federalists were highly pleased with the position taken by Cheves on the navy question. Secretly they pronounced him "as high a toned Federalist as ever was Alexander Hamilton." It was pleasing to note an increasing coolness between him and the Administration. The big navy program of Cheves plus the bellicose attitude of Grundy they figured would "in the end prove enemies more dangerous to the administration than all the Federal opposition could be." Those men possessed "too much talent, honour and independence to keep up this system of political juggling." [52]

Congress thus far had voted to increase the army by

[50] Grundy to Jackson, February 12, 1812, in Bassett (ed.), *Correspondence of Andrew Jackson*, I, 215.

[51] *Annals of Congress*, 12 Cong., 1 Sess., 803 ff.

[52] Samuel Taggart to John Taylor, January 22, 1812, "Letters of Samuel Taggart to Reverend John Taylor," in American Antiquarian Society, *Proceedings*, XXXIII (1923), 379.

twenty-five thousand men and to accept the services of not more than fifty thousand volunteer militiamen. From what source was the money to be raised for the purpose of equipping and supplying those troops? On February 17 Ezekiel Bacon of Massachusetts, from the Ways and Means Committee, reported a set of resolutions calling for several categories of taxes, including a heavy increase in import duties, a duty of twenty cents a bushel on salt, a tax on stills, and the apportionment of a direct tax of $3,000,000 among the states.[53]

A most delicate subject was being approached, and the "war mercury" took a downward plunge. Internal taxes had always been obnoxious to the Westerners, and to their representatives the very term sounded "more terrible than 50,000 British bayonets." [54] But the time to argue had passed. Either the measures preparatory to war must be abandoned or money must be raised, and there was small chance to meet the demand through borrowing.

Bacon and Grundy went into conference. The former declared his intention to press the revenue measures as rapidly as possible. Grundy disapproved. To him such a step would be placing the wrong thing first. He protested that the war measure should go first and be followed by the revenue measure. He believed it unwise to place a heavy load of internal taxes upon the people without first declaring war.[55] Grundy was continually afraid of dampening the war spirit, and he was correct in his assumption that nothing would do it quicker than a heavy demand on the purse. But Bacon refused to yield and the revenue resolutions were pushed.

[53] *Annals of Congress*, 12 Cong., 1 Sess., 1054–56.

[54] George M. Troup to David B. Mitchell, February 12, 1812, in Edward J. Harden, *George M. Troup* (Savannah, 1859), 107.

[55] Grundy to Jackson, February 12, 1812, in Bassett (ed.), *Correspondence of Andrew Jackson*, I, 215.

The proposed duty on salt produced the liveliest debate. The opponents of this measure vehemently protested that it would be an unfair tax since it would fall unequally upon the sections of the country. The friends of the measure expressed belief that it would not only bring in revenue but encourage the development of domestic manufacture. The subject was of no great concern to the West where springs and licks furnished an adequate supply of salt. The resolution was eventually rejected, but Grundy, hoping to tap this source of revenue, voted in the affirmative.[56]

With the rejection of the resolution for a salt tax there was danger of defeating the whole scheme for raising revenue. Thomas Gholson of Virginia, who had voted against the resolution, began to realize the danger. Two days later he announced his apprehensions to the House. Since the East and West would be adversely affected by the import duties and the land tax, he believed the middle and southern sections should give in on the salt tax. He understood now that the whole tax scheme was a unit and by defeating one portion the plan would be wrecked. In view of those recent developments he moved that the question of a tax on salt be reconsidered.[57] Wright bitterly opposed making the House into "a set of weathercocks, to be turned about by every idle wind." He stormed against those who had fostered such a tax. Tennessee, Kentucky, Ohio, and other sections of the West would not feel it at all. The House, nevertheless, not only voted to reconsider but passed the salt tax resolution.[58]

Alexander McKim of Maryland, Wright's colleague, immediately attempted to even the score with the West by proposing a tax on all distilled spirits except those pro-

[56] *Annals of Congress*, 12 Cong., 1 Sess., 1113–15.
[57] *Ibid.*, 1118–19. [58] *Ibid.*, 1122–27.

duced from fruits. He observed that the measure would not only bring in revenue but tend to encourage temperance. The proposal immediately drew replies from Grundy and Johnson. The former declared that practically the entire grain crop of the West was distilled and whiskey was the beverage of that region. Such a tax would not only be unfair but would ruin the prosperity of the West. An excise system was always odious to free people since homes and places of business were subjected to unceremonious visits by officers. Every man's home was his castle over which he should be master, and as for himself, he would rather leave his countrymen abroad to their own fortunes than to destroy industry, happiness, and security at home. Why did not the amendment include brandy? He hoped the gentleman from Maryland would begin his reformation at home among his brandy drinkers before he attempted to send his message of temperance beyond the mountains.[59] The amendment was later withdrawn and all the resolutions passed. On March 4 they were referred to the committee which reported them with instructions to frame a bill.

The position taken by Grundy on the proposal for a tax on distilled spirits was highly pleasing to his constituents. The *Clarion* spoke in glowing terms of the speech of the "faithful representative." When his constituents were about to be unjustly taxed, it continued, he had stepped forward and saved them. This was just another manifestation of his earnest effort to serve his people. The success which crowned his efforts was a testimony to his high

[59] *Ibid.*, 1136. Grundy was not opposed to temperance. In later years he took an active part in that line of work. In 1837 he was made president of the Congressional Temperance Society. See Washington *National Intelligencer,* March 2, 1837; *National Banner and Nashville Daily Advertiser,* February 10, 1832.

standing within party circles. It could recollect not one single instance when he had attempted to escape responsibility by failing to cast his vote even though it might be unpopular to do so.[60]

In spite of the supposed repeal of the French decrees and the constant talk of war against Great Britain, American commerce continued to fare badly at the hands of the French. The Administration and the war hawks were placed in an embarrassing position. In vain did they anxiously await notice of a change in French policy and an expression of willingness to compensate for damages already done. It seemed that if we defended our rights we must fight both Great Britain and France. Indeed, as ridiculous as it may seem, there was much talk of a triangular war. Madison pursued a "waiting" policy and grew rather lukewarm on the subject of war, but the Clay-Grundy-Calhoun group never ceased to agitate for an immediate declaration against Great Britain.

Since early in February, 1812, the impatient Grundy had been fretting over the delay and was seized with "fears, doubts, conjectures, suspicions, etc." He was disgusted with the seeming indifference to filling the ranks of the regiments which had been voted. Writing to Jackson on February 12, he complained that though the army bill had been a law for six weeks not a single officer, with the exception of the commander-in-chief, had been appointed. He feared the authorities were even considering General James Wilkinson for the command of the southern and western armies. Such an appointment he knew would "dampen the spirit" of the country. "Is there nothing rotten in Denmark?" [61]

[60] Nashville *Democratic Clarion and Tennessee Gazette*, May 6, 1812.

[61] Grundy to Jackson, February 12, 1812, in Bassett (ed.), *Correspondence of Andrew Jackson*, I, 215.

Midst the clamor for war the President had remained quiet and his silence was interpreted by many as an indication of the lack of sympathy. The more militant members of the war party were suspicious of his intentions. Since early in the session Grundy had doubted the sincerity of Madison. His letter to Jackson on November 28, 1811, voiced both a suspicion and a threat. If there was not "war or honorable peace" before the close of the session, "certain great personages" would be brought "down from their high places." [62]

As the months passed and still no war message came from the President, Grundy grew more impetuous. The Federalists perceived in him the Administration's most dangerous enemy. His thorough disgust with the inactivity of the President caused him to state, even in the presence of Federalists, that if those in authority did not "fight or quit talking about it . . . he would expose them in their true colours." [63]

How much pressure the war group exerted upon Madison is impossible to determine. By the last of March he had apparently abandoned hope of remaining at peace. On the thirty-first, Secretary James Monroe informed the House Foreign Relations Committee that the President was ready for a sixty-day embargo preparatory to war. A message accordingly would be sent to the House if its favorable acceptance could be assured.[64] The committee promised a friendly reception and the message was placed before the House on April 1, 1812. A bill was immediately reported and the House went into secret session.

[62] *Id.* to *id.*, November 28, 1811, *ibid.*, 208.

[63] Taggart to Taylor, December 30, 1811, in "Letters of Samuel Taggart to Reverend John Taylor," in *loc. cit.*, 375.

[64] See Randolph's speech, April 1, 1812, in *Annals of Congress*, 12 Cong., 1 Sess., 1593.

Adam Seybert of Pennsylvania called for information as to whether this was a "peace measure or a precursor to war?" His inquiry was immediately answered by Grundy. He understood it to be a war measure intended to lead directly to a declaration. The President and the Foreign Relations Committee had nothing else in mind. "He hoped the gentleman from Pennsylvania would now be satisfied, and prepare his mind to vote for it." [65] Clay added his enthusiastic approval and Randolph his vehement disapproval. Josiah Quincy pronounced the proposal a mere "refuge from the question of declaring war," but Widgery thought that war was inevitable and there should be no further delay. The bill was rushed through three readings in the same day.[66] In the Senate a combination of those who opposed war and those who wanted to postpone such a step as long as possible changed the period from sixty to ninety days and the war leaders of the House reluctantly acquiesced.[67]

Somebody had been talking. In spite of the closed doors, news of the proceedings had found its way into a hostile newspaper. Grundy demanded an investigation and was made chairman of a committee for that purpose. The investigation was a failure. The leak was traced to one Rounsavell who stated that he had received his news from members of the House. Who they were, he refused to divulge.[68] Suspicion naturally pointed toward the opposition but no proof could be obtained. Indeed, the opposition everywhere was talking and in strong language. "AMERICANS," raved the *Repertory,* "the doom of your devoted country at last is sealed. The evils you are to

[65] *Ibid.,* 1587–88. [66] *Ibid.,* 1588–98.

[67] James Madison to Jefferson, April 24, 1812, in *Letters and Other Writings of James Madison* (Philadelphia, 1865), II, 532.

[68] *Annals of Congress,* 12 Cong., 1 Sess., 1600–18.

experience from the sudden arrest of your trade with all the world, is but a beginning of calamities, in which this will be forgotten." [69] "We tell them plainly," thundered the New York *Evening Post*, "*we will not go to war; . . . now let them try their power over us as soon as they please.*" [70]

No sooner had the embargo been put in force than a flood of petitions began to descend upon Congress, praying relief from the law. On May 26 Harmanus Bleeker of New York presented one from Albany. John Rhea of Tennessee moved that it be tabled until July 4. He wished to "avoid encouraging in the breasts of the petitioners a groundless hope" by referring it to a committee.[71] Randolph came to Bleeker's assistance with a stinging denunciation of the restrictive system and a sneering slur at those who even thought we were in any way prepared for war. He could see gathering in the East a storm that would shake the very foundation of the country.[72] Calhoun was not disposed to argue the merits of the system, but he thought a failure to consider the petition would not necessarily be treating the petitioners with contempt. The embargo could not with expediency be removed, but he hoped Congress would not "wait the expiration of the embargo to take our stand against England; that stand which the best interest and honor of this nation have so loudly demanded." Within four months after the declaration of war, he prophesied, both Upper and Lower Canada would be in our possession.[73]

Grundy could see no storm gathering in the East, as

[69] Boston *Repertory and General Advertiser*, April 14, 1812.

[70] New York *Evening Post*, quoted in Washington *National Intelligencer*, May 12, 1812.

[71] *Annals of Congress*, 12 Cong., 1 Sess., 1379.

[72] *Ibid.*, 1384 ff.

[73] *Ibid.*, 1395–97.

Randolph warned. The gentleman from Virginia had not read the signs of the time correctly. The East, as well as the other sections of the country, was anxiously waiting to see Congress take the lead in vindicating the nation's rights. It was uneasiness that had been mistaken for a gathering storm, and that uneasiness had been caused by hesitation on the part of Congress. Declare war and the people would rally to the support of their rights. No member of the House, as far as he knew, had received advice from his constituents to the effect that Congress should retrace its steps. Until he heard of some he refused to believe the Randolph-Bleeker warning of hostility. "No, sir," continued Grundy, "public opinion condemns delay; it condemns a halfway state of things; it calls for action; it demands a firm and determined course to be taken by the National Legislature, and to be persisted in until foreign nations are compelled to respect our rights."

If the country was not yet prepared for war, whose fault was it? inquired Grundy. Did Randolph think that he could seek to block every step in the direction of preparation and still place the responsibility for lack of preparation upon the shoulders of others? That gentleman had been present when the Committee on Foreign Relations heard the explanation of the embargo. The Executive was responsible for the movement of all troops and the prosecution of the war and had asked for an embargo as a period of preparation. Action was to be taken at the close of that period. "From all this," Grundy continued, "I infer that we may safely, ere long, bring before this House a subject which will put an end to this embargo—not by a bare repeal of it, but by open and avowed hostilities." He did not approve of an embargo and had voted for it only to give the commercial men a warning of what was to follow. If they were wise they would get

their property out of the reach of the enemy while there was yet time. The petitioners undoubtedly were suffering, but he would plainly say that their prayers could not be granted. There was no good reason to send vessels to sea when war was soon to follow. Necessity had caused the step to be taken and since there was no prospect of adjusting the difference with Great Britain he trusted "every member of the majority . . . [would] do his duty without fear or trembling." [74]

Lord Castlereagh's note to Minister Augustus J. Foster on April 10, 1812, left little hope that Great Britain would ever agree to revoke her Orders in Council. She could not, reasoned Castlereagh, revoke them against the United States and leave them in force against other states merely because France had agreed to repeal her decrees against the United States only. President Madison considered this as final and set about preparing his war message which was sent to the House on June 1. The Foreign Relations Committee reported in favor of the declaration and the House went into secret session. The opposition, under the leadership of Quincy, demanded an open session. Grundy objected and he, Calhoun, and Clay called upon the President for advice. The doors remained closed. The minority, realizing there was nothing to be gained by further protest, maintained its silence while the majority passed the war measure seventy-nine to forty-nine.[75]

News of the declaration of war brought forth joy from its advocates and an outburst of criticism from its opponents. When the first session of the Twelfth Congress adjourned on July 6, it was amidst scenes that did not

[74] *Ibid.*, 1407 ff.

[75] William M. Meigs, *Life of John Caldwell Calhoun* (New York, 1917), I, 129; *Annals of Congress*, 12 Cong., 1 Sess., 1633–38.

augur a harmonious future for the Union. The storm predicted by Randolph was about to descend upon the land. It was Grundy who had misinterpreted the signs of the time. Federalist circles declared that responsibility for the war rested upon "James Madison, Felix Grundy and the Devil." [76] They averred that by a threat to desert him on the eve of the election of 1812, Clay and Grundy had coerced the weak Madison into sending in his war message.[77] There is no evidence to support such an accusation. Madison was caught by the wave of public sentiment which had been stimulated by the clamor of the war hawks. That fear of defeat in 1812 aided him in making his decision is quite probable. It is also very likely that Clay and Grundy did remind him that the source of his strength was in the South and West and that those sections were clamoring for immediate war.

The most violent opposition came from New England. Grundy, one of the congressmen who had raised the "war whoop," charged the *Connecticut Courant,* had plainly stated that the purpose of the war was to free our necks from the French halter. "But will the people be content to waste their treasure and spill their blood . . . for the sake of redeeming a pledge that was foolishly, not to say traitorously given to Bonaparte?" [78] From the pulpit of one of the prominent churches in Boston, the Reverend J. S. J. Gardner openly advocated disunion. By separation, he thundered, there was "nothing to lose but Thomas Jefferson, James Madison, Albert Gallatin and

[76] See speeches of Robert Y. Hayne, John Holmes, and Grundy in the Senate on the Foot Resolution, in *Cong. Debates,* 21 Cong., 1 Sess., 43 ff.; Joshua W. Caldwell, *Sketches of the Bench and Bar of Tennessee* (Knoxville, 1898), 56.

[77] Timothy Pickering to Abraham Shepherd, February 12, 1814, in Henry Adams, *Life of Albert Gallatin* (Philadelphia, 1880), 457.

[78] Hartford *Connecticut Courant,* June 16, 1812.

Felix Grundy." Everything—the friendship of Great Britain—would be gained by such a step! [79]

[79] Boston *Patriot*, quoted in the Philadelphia *Aurora and General Advertiser*, August 31, 1812. Owing to the severity of his utterance, Gardner's friends would never permit this sermon to be published although it was loudly demanded by the Boston *Patriot*. The expression, "James Madison, Felix Grundy and the Devil," in all probability originated with Gardner.

Chapter IV

A WAR LEADER IN CONGRESS

IT seemed impossible to find a financial measure that did not interfere with interests of some of the war party itself. The only tax measure of importance passed during the first session of the Twelfth Congress was an increase in import duties. Although the other tax bills based upon the resolutions passed by the House had finally been reported on June 26, they were postponed until the next session. The Secretary of the Treasury, Albert Gallatin, was conscious of the great disagreement and in his report to the new session of Congress in November, 1812, he made no tax proposals. The whole responsibility he thus shifted to Congress. But on November 18 this report was followed by a letter to the House Ways and Means Committee, in which he called attention to an immediate source of revenue.[1] Congress, by an act of March 2, 1811, had provided that the Non-importation Act should be automatically repealed when the Orders in Council should be revoked. As soon as Great Britain took this step several cargoes of British merchandise left for America. Meantime, war had been declared, and when these cargoes reached the United States they were seized. The government was then faced with the question of their disposition.

[1] Adams, *History of the United States,* VI, 438.

If the law of forfeiture should be applied, and it was applicable, half of the value should go to the informers or custom officials and the other half to the government. If any of this penalty should be remitted it would have to be done by the Secretary of the Treasury. While a decision was pending, the President allowed the owners to sell their goods but made them post bonds to the amount of about $18,000,000. The bonds, plus about $5,000,000 in duties, were held by the Secretary of the Treasury. The owners of the cargoes petitioned the government for a remission of their bonds.

There was no doubt that huge war profits had been made in the sale of those goods. That being the case, Gallatin thought it was wise to remit half of the forfeitures which would have gone to the custom officials and have the government remit a part and retain a similar sum.[2] That was the recommendation he made to the Ways and Means Committee. The members of the committee disagreed among themselves, but reported a resolution declaring it inexpedient for Congress to legislate on the subject and recommending that the whole matter be left with the Secretary of the Treasury.[3]

Richard M. Johnson defended the action of the committee and Samuel Mitchell of New York protested. The latter wished to see a total remission. He would admit that the petitioners had sinned, but not beyond forgiveness, and Congress had the right to forgive. The sin had been committed in ignorance of the law. They were merely trying to bring home the money and property that they held in England. Cheves, though chairman of the committee, joined the opposition with a declaration that he had rather the objects of the war be defeated and our

[2] *Ibid.*, 438–39; *Annals of Congress*, 12 Cong., 2 Sess., 1251–75.

[3] *Annals of Congress*, 12 Cong., 2 Sess., 198–99.

commerce driven from the sea than for the government to rob its citizens under the guise of a penalty. Congress had the power to remit and should exercise it. He wished to see a full remission of penalties and forfeitures on that portion of the property that was bona fide American and had even been purchased long before the Orders had been revoked. The excess profit had been about 10 per cent. The amount to be received then would be not more than $2,000,000 "whilst it . . . [would] withdraw from you the confidence of the only class of people to whom you can look for money to carry on the war." The trouble with the restrictive system as a whole was that while it "puts out one eye of your enemy . . . it puts out both your own." [4] Cheves was joined by the other two members of the South Carolina triumvirate—Lowndes and Calhoun. Clay and Grundy lined up opposite them. The war party was badly split.

Clay called for a strict enforcement of the law. Generosity should not be substituted for public interest. Compromise was out of the question. He favored total confiscation of all goods purchased after February 2, and shipped other than between June 23 and August 1.[5] When Grundy took the floor he was bitter in his denunciation of the petitioners. Those persons had broken the law and then asked for relief from its penalties. On no less than three occasions Congress had refused to repeal the Non-importation Act. Notwithstanding, the petitioners, in the very face of those refusals, had repealed the law for Congress. After trampling this sacred law under foot they

[4] *Ibid.*, 249. For debate on merchant bonds, see *ibid.*, 217 ff.

[5] *Ibid.*, 298 ff. After Cheves had retired from national politics, his merchant friends requested that he have a portrait painted. Prints of this portrait were used as mementoes. W. C. Ogden, "Langdon Cheves" (master's thesis, Duke University, 1930), 51.

asked for sanction of their actions. To grant those petitions would be to sanction the breaking of laws which were necessary to hold the "refractory element" within proper limits. The purpose of the Non-importation law was to bring pressure upon Great Britain by refusing to import her manufactures. Instead of co-operating, the petitioners had invested their money in British goods, giving to the enemy the relief our government had hoped to withhold. Further, they were not content with ordinary profits, but demanded the excess profits of a closed market. They asked not only a return of the amount they had invested in British goods but also asked *"a bounty* for their transgressions." If it had not been for just such relief given British manufacturers before the war, the Orders in Council would have been repealed long ago and there would have been no war. He, nevertheless, quickly added that the Orders in Council were not the sole cause of the war.

A complete remission as proposed by some would be an inducement for others to violate the law. To enforce the penalties would deprive them of prospects of gain and thus remove the inducement. The government, he thought, might remit the capital invested by the petitioners but withhold the profits. He could not agree, as had been charged by some, that failure to remit would be giving the Secretary of the Treasury the power to tax those men as he saw fit. He and the other opponents of remission merely wished to prevent the petitioners from depriving the country of what should go to the government.[6]

Grundy fought a losing battle. The party was too badly split, and the unpopularity of the restrictive system was beginning to be felt. The result was that Gallatin's pro-

[6] *Annals of Congress,* 12 Cong., 2 Sess., 355 ff.

posal was defeated and a bill finally passed which remitted all penalties and forfeitures on goods shipped from England prior to September 15, the date the news of war had arrived. It was the votes of Calhoun, Lowndes, and Cheves that turned the tide,[7] and from this point on, these three were bitterly opposed to the restrictive system.

On December 24 David R. Williams, from the Committee on Military Affairs, brought in a bill to raise an additional military force of twenty thousand men for a period of one year. This measure gave occasion for the opposition to vent its bitterness. That was exactly what Josiah Quincy did. His speech was unrivaled during the session for its invective. So bitter did he become, he was called to order several times. He denounced the war and everyone who had been connected with it. The eastern "democrats" [8] were toads and reptiles "which *spread their slime in the drawing room.*" The troops were not desired for defense but to invade Canada, and such a campaign was "too absurd for serious examination." Those poor innocent people were the victims of Republican desire for conquest. The whole project was for the purpose of advancing the ambitions of a few persons. The venerable Jefferson did not escape his vituperation. The American cabinet was made up of "two Virginians and a foreigner." [9]

Grundy replied in a speech that was not lacking in fiery darts. He would not charge that Quincy was under British influence or had "such strong English partialities, that

[7] Mrs. St. Julien Ravenel, *Life and Times of William Lowndes of South Carolina* (New York, 1901), 122.

[8] The term "democrat" was used in derisive reference to the advocates of war rather than as a substitute for "Republican."

[9] *Annals of Congress*, 12 Cong., 2 Sess., 540–69, 600.

there . . . [was] no room left for his own country," but the impression he left could not be mistaken. The war had not been begun for the sole purpose of securing a repeal of the Orders in Council but to obtain redress for spoliations and to force Great Britain to cease the impressment of our seamen. To lay down arms and resort to negotiations would be foolish. If we failed to prosecute the war the British could justly say that the United States would not fight for her rights. Were we to surrender our rights on the sea to please England? As for himself, he preferred asserting those rights until the object was attained or the ability of our nation failed.

George Washington had rejected a British proposal that American seamen be forced to carry certificates. John Adams had rejected a proposal for reciprocal exchange of American and British deserters because it would not safeguard our seamen from impressment. For the present government to give in would be to surrender those rights which the earlier governments had fought to preserve. If that should be done "we had as well abandon the ocean altogether."

Before Quincy should express so much pity for the poor, innocent, suffering Canadians, exclaimed Grundy, he should look at the plight of our seamen and view the butchery of our western citizens. "If, sir," cried Grundy, "that gentleman has his feelings so enlisted on the side of the enemies of his country as to be unable to sympathize with us, I will not, I cannot acknowledge him as my political brother." He had considered the surrender of the army at Detroit shameful and astonishing, but that astonishment ceased after he heard what had recently been said on the floor of the House. Treason in camp could no longer be considered as strange. Disunion in

Congress and not ill management on the part of the Executive had been responsible for the failure of our land forces, continued Grundy. Such disunion was particularly pleasing to the enemy. They even looked forward to a separation of the states. There was one great redeeming feature left, nevertheless—the soldiers had not disgraced themselves though their leaders had turned traitors.

As to the bill before the House, Grundy would vote for it in the absence of a better one. He had much rather see five-year enlistments than one if they could be obtained. But a short-term army would be better than no army at all. Perhaps those short-term men would become so attached to army life that they would desire to remain in the service.[10] Clay joined Grundy and delivered probably the best of his earlier speeches. After some biting remarks directed toward Quincy, he made a brilliant and appealing defense of Jefferson and scoffed at the idea that the United States had been duped by France. Impressment he considered the most serious aggression. His plan would be to call out all resources of the country, prosecute the war with vigor, and dictate the terms of peace at Quebec or Halifax.[11]

The obstacles in the way of settling the question of impressment of seamen were many. Often those impressments took place even on British shores. The flag could not penetrate those places, therefore it was futile to attempt protection of seamen there. But the United States earnestly desired that the practice be ended, and she was not particular how it should be accomplished. With this view in mind, Monroe proposed to Great Britain that he would ask Congress to go so far as to pass an act prohibiting the employment of British seamen in either commerce or the navy. The Secretary of State probably hoped

[10] *Ibid.*, 600 ff. [11] *Ibid.*, 659 ff.

that such a step would induce England to permit the use of seamen already naturalized.[12]

This matter was brought to the attention of Congress. On January 29, 1813, Grundy presented a report from the Committee on Foreign Relations. Since it embraced the views of Monroe, it is very probable that that gentleman was connected with the framing of the report. This document informed the House that the sole purpose of the war was the vindication of rights and honor. The government must protect its citizens and the citizens had a right to know what was being done by the government. Important communications had been passing between the Executive and the British authorities. A "speedy and honorable termination" of the war was greatly desired by the Executive and toward that end he had directed the Chargé d'Affaires in London to make certain proposals to the British government. One proposal had provided for an armistice on the condition that the Orders in Council be repealed and our flag recognized as protection to our seamen. The United States on the other hand would agree to repeal the Non-importation Act and prohibit the employment of British seamen on American vessels. Those proposals had been rejected by the British, and "terms of peculiar reproach and insult were adopted to make the rejection offensive." In spite of that rejection, Great Britain did repeal the Orders in Council. That left impressment as the only outstanding point of difference. An unsuccessful effort was then made to remove the last barrier. The committee, believing impressment to have been the principal cause of war, desired to see the war continued until Great Britain should remove that cause. Those things, it felt, should be explained to the people. Great Britain maintained that she possessed the right to

12 *American State Papers, Foreign Relations,* III, 585.

impress her own seamen and was exercising that right on American vessels. She had insisted that American citizens should carry papers establishing their citizenship. That, Grundy asserted, the committee deemed out of the question for two reasons. In the first place, seamen could hardly be expected to preserve such papers from loss or destruction. Neither could the United States afford to degrade herself by the acceptance of such a British demand.

The committee had reached the conclusion that if both the United States and Great Britain should exclude from their services the citizens of the other, there would no longer be an excuse for impressment. Accordingly, the committee recommended that the House pass the attached bill, the main provision of which was that, beginning with the termination of hostilities, the United States would prohibit the employment of subjects of foreign nations on American vessels.[13]

Grundy led off in defense of the bill. It was not intended as a temporary measure but a permanent law. The rush of British seamen to our service in time of peace had created an oversupply of labor. Their withdrawal in time of war caused a scarcity of labor. Exclusion would tend to stabilize both the supply and the price of such labor, and produce a more dependable class of workers. Such a circumstance would also reduce the possibility of future wars.[14] After the United States had taken this precaution, every man who might be afterward impressed would be without doubt an American.

It should be noticed, insisted Grundy, that the bill protected both the native and the naturalized citizen.

[13] *Annals of Congress*, 12 Cong., 2 Sess., 932 ff.

[14] His argument, Grundy emphasized, was not to be applied in any way to the present conflict.

That was the limit of our responsibility. Foreigners had no claim to our protection. They must look to their home governments. As long as the government extended its claims to the true boundary and protected everything that lay within, the people would give it their confidence. This being the case, it was very essential that the people understand that the war was not being wantonly prolonged, but was being waged for the protection of rights. He could boast that he had nothing to fear from his people. They understood the situation.[15] Yet some people, he was informed, had deceived themselves into believing Congress did not want harmony with Great Britain. In order to undeceive those persons, he called upon the House to pass the bill before it. If that should be done, the ground would be removed from under the feet of the opposition. Opponents had been calling for such a bill and he was willing to yield to the request. Union was the only thing that could win the war. This measure, he hoped, would create such union among the people.

Grundy could not be so optimistic as to expect peace to result from this step, as some believed, though he would welcome a "just, honorable, and reciprocal treaty." The bill, he insisted, carried with it the abandonment of no American right or claim. The United States would not be degraded and she would say to the world "that the

[15] Grundy took great pride in the support he received from his constituents. "I am much gratified," he wrote Jackson, "at the disposition shewn by the Citizens of my District in Volunteering their services in behalf of their Country, It does them much honor, and I confess I feel my own pride increased in consequence of it." Bassett (ed.), *Correspondence of Andrew Jackson,* I, 216. The Nashville press continually urged him on with such statements as: "where is it written in the book of fate that the American republic shall not stretch her limits from the capes of the Chesapeake to Nootka sound, from the isthmus of Panama to Hudson Bay?" Nashville *Democratic Clarion and Tennessee Gazette,* April 28, 1812.

continuance of this war is not owing to any disregard to justice on our part." [16]

There were some strong objections to the bill. Wright pronounced it unconstitutional in its interference with naturalization. Seybert pointed out that it was unpropitious to pass permanent measures in wartime. Other objections stressed by the opposition were that it was merely sending to England an ultimatum which she was certain to reject, and that it deprived merchants of much needed seamen.[17] Such arguments availed little since not only the Administration but a large portion of the opposing group desired the passage of such an act. It placed a better face on a situation that was not pleasant to look upon, but it did not end the war. Grundy in sponsoring the bill became the leader of the Administration forces in the House.

On February 15, 1813, Cheves, from the Ways and Means Committee, brought in a proposal for a partial suspension of the Non-importation Act. The leniency granted to those persons who had violated the act undoubtedly gave hope for the passage of such a recommendation. If the statute could be even partially suspended it would give some relief within the Treasury Department, and thus permit a further postponement of the delicate subject of internal taxes. Cheves recommended that this subject be acted upon before the close of the session but that the question of internal taxes be carried over to the next session.[18] There were some in the House who were unwilling to put off levying taxes any longer. On February 17 they made an effort to call upon the Ways and Means Committee to report the tax measures for the ensuing year. A two-hour debate followed in

[16] *Annals of Congress*, 12 Cong., 2 Sess., 960 ff.
[17] *Ibid.*, 968–1055. [18] *Ibid.*, 1062–63.

which several members took part, and the motion was lost.[19]

Two days later Grundy moved that Congress convene in special session on the last Monday in May. This, he believed, could scarcely be avoided since the time remaining in that session was not sufficient for a thorough discussion of the two questions at hand—a repeal of the Non-importation Act and the levying of taxes. If lack of time prohibited discussion and final action upon those measures, he deemed it unwise to bring them up. He felt that "the public mind should receive no shock at this time." [20]

Randolph reminded the House that an election was pending in Tennessee as well as in two other southern states. That being the case, it was easy to understand why Grundy desired to postpone the consideration of those two dangerous questions. Even a discussion of them might cause some dissatisfaction within the ranks of the gentleman's constituents.[21]

The insinuation made by Randolph was denied by Grundy, but there was undoubtedly some truth in it. With an opponent already in the field against him, it would have been political folly for Grundy to rush in and take a stand in favor of either of the two measures. On the other hand, if he opposed levying the taxes he would handicap the progress of the war and forfeit his claim to a position among the leaders of the war party. He chose the path of least danger and trusted that the future would alter the situation. Congress voted to reconvene on May 24, and adjourned without giving any relief to the embarrassed Treasury Department.

Shortly after Grundy had returned some of the invec-

[19] *Ibid.*, 1076–79.
[20] *Ibid.*, 1083.
[21] *Ibid.*, 1084.

tive hurled by Quincy,[22] he held a good-natured conversation with that gentleman. During the course of the conversation he was said to have remarked: "Quincy, I thought I had abused you enough, but I find it will not do." In surprise Quincy inquired, "What is the matter now? I do not mean to speak again!" "No matter," chuckled Grundy; "by heavens, I must give you another thrashing." "Why so?" "Why the truth is, a d——d fellow has set up against me in my district,—a perfect Jacobin, as much worse than I am as worse can be. Now, except Tim Pickering, there is not a man in the United States so perfectly hated by the people of my district as yourself. You must therefore excuse me. By G—, I must abuse you, or I shall never get re-elected. I will do it, however, genteelly. *I will not do it as that d——d fool of a Clay did it,—strike so hard as to hurt myself.* But abuse you I must. You understand. I mean to be friends notwithstanding. By G— I mean to be in Congress again, and must use the means." [23] Grundy did not repeat the attack but he was politically correct in his assumption. West Tennessee was highly pleased with his record.

Many, probably Grundy himself, were surprised when young Newton Cannon announced his candidacy in opposition to the "War Hawk." John Sevier wrote to James Robertson in February, 1813, speaking of Grundy in the most commendable manner: "your friend Grundy: he ought to be reëlected; the district will never find a better representative should he be changed for another." [24] Robertson, from the Chickasaw Agency, relayed the senti-

[22] See page 66.

[23] Quincy to Mrs. Quincy, February 16, 1813, in Edmond Quincy, *Life of Josiah Quincy* (Boston, 1869), 303–304.

[24] Albigence W. Putnam, *History of Middle Tennessee or Life and Times of General James Robertson* (Nashville, 1859), 602.

ment to Captain John Davis: "Is it not strange that Colonel Cannon should oppose *Mr. Grundy,* when he does such honor to the State? His equal is not in the State. You Harpeth people ought to turn out and keep up the credit of the State." [25]

The Nashville press gave him strong support. Surely Felix Grundy had nothing to dread from the people of his district in the coming election. The only question that should be asked was whether the government had acted correctly. If so, then the actions of Grundy had been correct, for he had been its strong supporter. "If the war is just," voiced the *Clarion,* "he has been its advocate—and if zeal and attention to business merit reward, he has some claim to your suffrages." Cannon, it thought, was a "good young man" but Grundy was a man of talents that were "both the envy and scourge of the enemies." [26] The *Whig* felt positive that the people would reward their representative for his "exertions in vindication of our violated rights" by a vote which would convince all the world of Republican gratitude.[27]

The *Clarion* of April 13, 1813, carried the news "with sincere pleasure" that Grundy had been re-elected by an immense majority. He had certainly met the approbation of nine tenths of the people of West Tennessee. "What a glorious—what an invaluable reward must such decided approbation of his constituents be to the representative of a free and intelligent people." [28]

Congress reassembled on May 24, 1813, for its special session. Clay was again chosen speaker. Calhoun became chairman of the Committee on Foreign Relations with

[25] *Ibid.*

[26] Nashville *Clarion and Tennessee Gazette,* March 2, 1813.

[27] Nashville *Whig,* February 17, 1813.

[28] Nashville *Clarion and Tennessee Gazette,* April 13, 1813.

Grundy second in rank. Cheves, however, was not again placed as chairman of the Ways and Means Committee. His place was given to John W. Eppes of Virginia, a son-in-law of Jefferson and the victor over the eccentric John Randolph of Roanoke. There was certainly at least one source of relief to the Administration—it was rid of the biting tongues of Randolph and Quincy, who also did not return.[29] Amid the intense heat of a Washington summer and a rumored approach of a British fleet up the Potomac, the new Congress was immediately forced to give its attention to unfinished business of the past session—the distasteful subject of taxes.

Taxation was the most unpleasant topic upon which the war party had to take a stand. If the war was to be prosecuted, then money must be raised. The South and West had less dread of battle than of the tax collector. In spite of this distaste there was no other choice and the situation was desperate. But the unpleasantness of the ordeal was greatly relieved by good news from Canada. It was rumored that the Americans had defeated every force brought against them north of the Niagara River. South of that river Fort George, Queenstown, and Fort Erie had surrendered. Grundy wrote to a friend that "the province of Upper Canada may be considered as subdued." [30]

On June 10 Eppes of the Ways and Means Committee reported eleven tax bills to the House. These called for direct taxes, duties on distillers' licenses, bank notes, and certain foreign bills of exchange, and additional duty on

[29] In an effort to console himself, Randolph wrote Quincy on June 20: "I cannot be *bona-fidely* sorry, as one of their great orators would say, that I am at home . . . rather than under the discipline and *order* of the Calhouns, Grundys, and Seavers." Quincy, *Josiah Quincy*, 332.

[30] Grundy to the Editor, June 8, 1813, Nashville *Clarion and Tennessee Gazette*, June 29, 1813.

foreign tonnage.[81] This was an almost complete recommendation of the proposals made by Gallatin at a previous session. As distasteful as it might be, the war party was forced to enact these measures.

The House, on June 16, took up a series of resolutions offered by Daniel Webster. There could be no doubt as to the purpose of the step taken by that gentleman. The President was to be embarrassed. In order to understand those resolutions it is necessary to note briefly the events upon which they were based.

On April 21, 1812, the British government had agreed to revoke the Orders in Council when the French government issued an authentic public statement that the Berlin and Milan decrees had been unconditionally repealed. The American Minister at Paris, Joel Barlow, upon hearing this British declaration, took the matter up with the Duke of Bassano on May 1, 1812. At this point the French decree of April 28, 1811, was first mentioned to him. This decree, the Duke said, had already repealed the Berlin and Milan decrees. He admitted that the decree had not been published but Barlow's predecessor as well as the French Minister in America had been informed of the provision and instructed to convey the information to the United States government.

It was not until May 20, 1812, that the British government learned of this decree. War followed on June 18 and on June 23 the Orders in Council were revoked. Notwithstanding all of this, the President did not notify Congress of the French decree of April 28, 1811, until November 4, 1812. It was not until March 3, 1813, that the communication between Barlow and the Duke of Bassano was placed before Congress. This action had

[81] *Annals of Congress,* 13 Cong., 1 Sess., 148–49.

been taken only after the House had requested it.[32]

It was charged that the President had withheld from Congress some valuable information which was vital to correct legislation. Had a copy of this decree reached England before war was declared, the opposition argued, the Orders would have been revoked and there would have been no war. The purpose of Webster's resolutions was to secure additional information that might be in possession of the Executive. His resolutions requested the President to inform Congress when, by whom, and in what manner intelligence of the French decree of April 28, 1811, was first reported to the government. Second, had Russell, the former Chargé d'Affaires at Paris, ever admitted or denied the truth of Bassano's statement? Third, did the French Minister at Washington convey the news to our government? If so, the correspondence was requested.

Why had the Executive withheld this information, inquired the opposition, unless it was to force a war with Great Britain. Yet it had been charged that the opposition was responsible for the calamities facing the United States. Madison was placed in a bad light, and the duty of defending him devolved upon Felix Grundy, the Administration leader on the floor of the House. After Madison had abandoned his "waiting" policy and sent in the war message, Grundy evidently changed his attitude from one of suspicion of the motives of the Executive to that of a staunch supporter. He protested against the claim that a repeal of the Orders in Council would have followed a knowledge of the French decree. To prove his position, he read from British documents to the effect that a repeal not only of the decrees against the United States but against all neutral trade was demanded

[32] See speech of Thomas J. Oakley of New York, *ibid.*, 186 ff.

by Great Britain. In the face of such a demand the United States was helpless. It had no right to demand that France repeal a decree except as it applied to us. Great Britain had hoped to use us as a tool with which to open the ports of Europe. He further substantiated his position with extracts from communications between Foster, the British Minister, and the executive department. It was very mortifying, Grundy declared, to see members of the House express doctrines in behalf of the British which they themselves had never avowed. Such action gave the appearance of a desire to "out-Castlereagh Lord Castlereagh himself." Suffering on the part of the British manufacturers plus a fear of war, not the repeal of the French decrees, was what finally prompted the revoking of the Orders. French influence? It was only a scheme to deceive and alarm the American people. Yes, France had wronged us, but why had not the opposition voted for war against France when McKee had proposed it in the House?

He had never charged to any member of the opposition the responsibility for the great calamities and disasters of the war. Many of the opposition, he believed, had been governed by honest motives. They had opposed war but stayed within their constitutional bounds. But he did accuse most emphatically those persons who were so low that, while enjoying the protection of the country and professing to be its friends, gave aid to the enemy. Anyone who made a systematic effort to weaken the arm of the government was no better than a traitor. Such persons had gone up and down the country seeking to defeat loans, to prevent enlistments, and to dampen the spirit of the citizens. Such persons brightened with joy at the news of our defeat and sank into a melancholy mood at news of our success.

The raising of money, Grundy emphasized, was essen-

tial to carrying on the war. He who hindered that work hindered victory. He who dissuaded soldiers from joining the army in effect strengthened the enemy. If a man went over to the enemy he was guilty of treason. What if he stayed at home and assisted the enemy? He was then guilty of *moral treason* and was even more despicable than a legal traitor. Those who fled to the enemy took their stand and the world knew what to expect. They were as honorable as the ones who remained among their fellowmen, yet thought and acted for the benefit of the enemy. The "only difference," exclaimed Grundy, "is, that in one case he forfeits his life for his crime, in the other he lives an object of public execration and loaded with the abhorrence of all good men." The opposition claimed to be the friends of peace yet they offered every obstacle to it. Peace must be obtained either by defeating the enemy or negotiating with her. Nothing but objections, obstacles, and difficulties had been used by the opposition to greet the former, and at the same time they refused the latter by rejecting the good offices of Russia. "Every attempt to negotiate is treated with ridicule, and every means of carrying on the war successfully is withheld, so far as they can effect it—and these are the friends of peace." [33]

Grundy had struck a new note when he denounced what he termed *moral treason*. The opposition press lost no time in answering him. The war was a ruinous one and had "neither object nor end worth contending for." Because the persons who opposed such a war did not open up their purses and pour their money into the lap of the Administration, which they did not trust, they were denounced. Those who refused to shed their blood in a useless and ill-managed war were likewise denounced.

[33] *Ibid.*, 219 ff.

What had been the offense committed by those people? They had been "guilty of a crime hitherto unheard of—*Moral Treason.*" [34]

Grundy's defense of the Administration was pronounced weak by the opposition. Had Great Britain demanded that France repeal her decrees against all neutral trade? It was admitted that the Foster-Monroe correspondence seemed to say so. But there was a "higher evidence" which Grundy had overlooked. That evidence was found in earlier statements made by the Prince Regent in which it was announced that Great Britain stood ready to revoke at any time should the decrees that prompted the Orders be unconditionally repealed and neutral commerce allowed to resume its accustomed course. Did that mean that European ports must be opened up previous to revoking? No. Grundy and his friends would be forced to find a better explanation as to why the news of the repealing decree of April 28, 1811, had been so long concealed. Until a better reason should be produced, not only the citizens of the United States but of the whole world would "cry out *guilty* against that *Administration* which . . . [had] thus wantonly precipitated this country in a War." [35]

By July, 1813, the Administration and the war group were furious when it became quite evident that citizens of the United States would stoop so low as to trade with the enemy. The fact that America was at war with Great Britain mattered not. Those who were guilty reasoned that the war was unjust and unnecessary and citizens were not bound to support it. They could see no good reason why trade should be ruined just because the Administration, backed principally by the West, desired to conquer

[34] "Ithuriel," in Charleston *Courier*, July 31, 1813.
[35] "Juvenis," *ibid.*, July 20, 1813.

Canada. The reasoning was convincing to the guilty, and supplies were sold not only to Canada but to the British fleet. The British had agreed to allow certain neutral vessels to pass the blockade provided they would bring supplies desired by Great Britain. In that manner neutral vessels were loaded in United States ports and sailed out to sea only to transfer their cargoes to the British. It was further rumored that disloyal Americans were, through the use of blue lights on shore, keeping the enemy informed of our activities. Nothing could have been more irritating to the author of the doctrine of moral treason as well as to the Administration. There was only one way to put a stop to such an unbelievably contemptible practice—a rigidly enforced embargo.

On July 20 President Madison sent to Congress a short message recommending "an immediate and effectual prohibition of exports." The act should be terminated with some date during the next session of Congress, but subject to withdrawal at any time when conditions no longer demanded its enforcement. In the House the message was referred to the Foreign Relations Committee, of which Calhoun was chairman. It was sure to meet opposition, for the South Carolina trio—Calhoun, Cheves, and Lowndes—had their own plan. Pressure from the opponents of internal taxes was bearing heavily upon them. They proposed a complete removal of all commercial restrictions even to the admission of British goods. Such imports, upon which a heavy duty should be placed, would supply the Treasury with needed funds and thus remove the need for internal taxation.[36]

The committee reported unfavorably, but the friends

[36] See Calhoun's speech, *Annals of Congress*, 12 Cong., 1 Sess., 1539–44; Meigs, *John Caldwell Calhoun*, I, 134–35; Adams, *History of the United States*, VI, 443.

of embargo refused to abandon the plan. A bill should be reported in spite of the hostility of a majority of the Committee on Foreign Relations. A resolution providing for the appointment of a special committee was passed and Grundy was made chairman. He reported the desired bill, laying an embargo on all ships and vessels in the harbors and ports of the United States. Grundy was determined to place a check on the friends of the enemy. "The enemy," he wrote to Jackson, "is now in our waters in great numbers supplied by our provisions, this certainly should be stopped and there is but one way to do it. . . . An embargo ought to be and probably will be laid." [37] Administration forces in the House were strong enough to pass the bill.

Friends of restriction were highly pleased over the action of the House, but the opposition was more bitter than ever. "*The boar out of the woods hath devoured us,*" exclaimed the *Connecticut Courant*. "Spirits of our forefathers! Was this the independence for which ye lavished your treasures and your blood? Was it that New England might have a new set of masters—a Clay and a Grundy, for a Grenville and a North?" [38] The advocates of the measure received a shock, however, when the Senate rejected the bill. And when the special session adjourned no embargo had been passed. Thus the Senate again embarrassed the Administration just as it had previously done in the rejection of Gallatin as a member of the proposed commission to Russia: an act for which Grundy hoped the Lord might forgive that body, but he never could.[39]

Conditions that had prompted the President to request

[37] Grundy to Jackson, July 26, 1813, in Jackson Papers.
[38] Hartford *Connecticut Courant*, August 3, 1813.
[39] Grundy to Jackson, July 26, 1813, in Jackson Papers.

an embargo had not improved by the time the Thirteenth Congress went into its regular session. On December 9 he renewed his request. The laxness of the commercial and navigation laws tended to prolong the war by permitting the enemy to obtain provisions. Supplies of the "most essential kind" were finding their way from our ports to the British fleet while our own forces were hard pressed to secure necessities. He desired an effectual embargo on all exports. The message was referred to the Committee on Foreign Relations, and Grundy immediately reported a bill laying the requested embargo. It prevented not only foreign but coasting trade as well. On Grundy's motion the House went into secret session and the bill was passed shortly thereafter. It also met with favor in the Senate.[40]

The opposition press inquired what was the matter with Calhoun. He was the chairman of the Foreign Relations Committee and yet Grundy reported the bills from that committee. It answered its own inquiry by saying that Calhoun was ashamed to report such bills, and so he imposed the duty on Grundy. "The moral treason discoverer," it explained, "is put forward to father such things because he can lose nothing by it, and is pestered with none of those refined feelings and nice sensibilities, which make others regardful of character." [41] Such an accusation was unfair to both Calhoun and Grundy. The former was not attempting to place responsibility upon any other person. He opposed the embargo because it made internal taxes necessary. This being true, a favorable report from him was not to be expected. Neither was Grundy removing the chestnuts for Calhoun. He strongly favored a strict enforcement of the embargo as a means of

[40] *Annals of Congress*, 13 Cong., 2 Sess., 2032–53, 2781–88.

[41] *Federal Republic*, quoted in Charleston *Courier*, March 23, 1814.

promoting military success. Since the time he reported the bill for regulating seamen, he had been considered the leader for the Administration not only in the Foreign Relations Committee but also on the floor of the House. That Grundy was a politician is without doubt. Quincy thought him a "perfect political jockey, and as good-humored as he . . . [was] cunning." [42] But to say that he had no regard for his character was carrying the attack too far. He was smooth and clever but honorable.

Grundy felt gratified by the success of the embargo bill. He wrote to a friend that he hoped there would now be a fair test whether there were "honest men enough in this nation to prevent traitors from feeding our enemies." [43] As much as he favored the embargo, his enthusiasm did not completely blind him to its weak points. The sterile island of Nantucket, with its seven thousand inhabitants, was hard hit by the war and ruined by the embargo. The chief industry there was whaling, and many of their vessels had fallen into the hands of the enemy. Importation of food was now stopped. A petition was sent to Congress praying relief from the embargo. Their petition was sufficient testimony to the rigid enforcement of the act. Grundy, from the Foreign Relations Committee, reported favorably and the President was authorized to permit the islanders to import necessities. An attempt was made to make the bill cover all such cases but Grundy raised an objection. The inhabitants of Nantucket had a good case and should be relieved. Other islands, if suffering, should make out their own case. It would endanger the embargo on coasting trade if a general policy was adopted.[44]

[42] Quincy, *Josiah Quincy*, 303.

[43] Grundy to the Editor, in Nashville *Clarion and Tennessee Gazette*, December 20, 1813.

[44] *Annals of Congress*, 13 Cong., 1 Sess., 1115.

Even though rigidly enforced, the embargo was destined for a short life. European conditions were responsible for its demise. The glory of Napoleon was fading rapidly, and it was believed he could not hold out much longer. The ports of Europe were emerging from under his control and throwing open their doors to British commerce. It appeared that both the British fleet and armies in their entirety would soon be ready to devote their full time and energy to the American war. The picture, however, was not all dark. Along with this distressing news came a ray of hope. Castlereagh would be agreeable to *direct* negotiations. The Administration accepted the offer, and the names of John Q. Adams, James A. Bayard, Henry Clay, and Jonathan Russell were sent to the Senate as a proposed commission to confer with the British.[45]

Clay's departure left the speakership of the House vacant. Both Cheves and Grundy were put forward by their friends. Grundy was doubtless preferred by the Administration and received the support of the President's friends. Cheves' increasing coolness toward the Administration and his open hostility toward the restrictive system made him acceptable to Federalists and anti-Administration Republicans. This combined opposition was too much for Grundy, and Cheves was elected by a vote of ninety-four to fifty-nine.[46] The election of Cheves was a forewarning of the repeal of the embargo.

On March 31, 1814, the President recommended the repeal. Calhoun reported favorably from his committee and the embargo was no more. If Grundy took any part in the debate, the *Annals* fail to reveal it. He was either

[45] Adams, *History of the United States*, VII, 370–71.

[46] *Annals of Congress*, 13 Cong., 1 Sess., 1057; Randolph to Francis Scott Key, January 20, 1814, in Hugh A. Garland, *The Life of John Randolph of Roanoke* (New York, 1850), II, 30.

absent or failed to vote on the third reading, but he did vote to engross and pass the bill to a third reading.[47]

The last prepared speech delivered by Grundy in the House of Representatives was occasioned by the debate on the $25,000,000 loan bill. His enthusiasm for the American cause had not cooled. America should continue to assert her rights by the sword if negotiations failed. His confidence in the "magnanimity and justice" of the enemy was very limited. Money must be appropriated or else the United States would be forced to beg the pardon of Great Britain for our transgressions and then accept any terms offered. Pass the bill in question and if the loan was subscribed, and he still had confidence in the people, there would be sufficient funds to meet the present needs of the government and preserve the credit of the nation.

When he touched upon the subject of moral treason, the doctrine for which he had been so bitterly denounced, he had lost none of the fire of his former utterances. He pointed out that the Federalists' own law of 1798, if still in effect, would punish those whom he had denounced as moral traitors. There was no difference between sedition and conspiracy to prevent loans and enlistments. Republicans did not wish to effect their object by fines and imprisonments as the Federalists had done. They hoped to make such actions "disreputable in the public estimation." As for his statements on moral treason, he would never retract them. "So far from it," he exclaimed, "would to God it were written in letters of sunshine in the very centre of Heaven, that all the world might read." [48]

Although Grundy voiced confidence in the people, experience had taught him that they were slow to give or lend their money. New England was openly hostile even

[47] *Annals of Congress*, 13 Cong., 2 Sess., 2000–2002.
[48] *Ibid.*, 1532 ff.

to the point of disunion and that was the section which held a major portion of the estimated $17,000,000 of specie.[49] That region during the war had gone into the manufacturing business and continually drained the specie from the other sections. The West could not make a heavy response to the proposed loans and no person knew this better than Grundy. The East could but would not, and Grundy with his doctrine of moral treason became an object of ridicule and invective. "Any *Federalist,*" announced a writer in the Boston *Gazette,* "who lends money to the government, must go and shake hands with *James Madison,* and claim fellowship with *Felix Grundy.* Let him no more call himself a *Federalist,* and a friend of his country. He will be called, by others, infamous." [50]

A national bank, Grundy thought, might be the answer to the problem. Such a bank might be chartered and located in Washington. Men experienced in financial matters were consulted and they thought the plan practical.[51] Accordingly, he introduced a resolution on April 2 asking that a committee be appointed to inquire as to the expediency of establishing a national bank. Thomas Newton of Virginia immediately raised the question as to the constitutionality of such an institution. In reply, Grundy pointed to the condition of the country. A loan had been authorized, but where was the money? He wished to see a bank established as a "national object." As for himself, he "entertained no constitutional scruples about it." The resolution was passed and referred to a special committee of which Grundy was made chairman,[52]

[49] Adams, *History of the United States,* VII, 388.
[50] "Mercator," in Boston *Gazette,* April 14, 1814.
[51] See speech in Senate, *Cong. Debates,* 23 Cong., 1 Sess., 1591–92.
[52] *Annals of Congress,* 13 Cong., 2 Sess., 1942, 1956, 2002.

but there the project was checked. The committee being unable to agree, the House, on motion of Grundy, discharged it from further consideration of the question. Under these distressing circumstances the session came to an end, and so did the career of Felix Grundy in the House of Representatives of the United States.

Grundy's term did not expire until 1815, but during the summer of 1814 he resigned his seat. To him it had been a distinct honor to serve in Congress. In letters to Jackson he had often expressed his appreciation at having such an honor bestowed upon him by his constituents. He especially swelled with pride at the thoughts of the number of volunteers his district had furnished to the armies he had struggled so consistently to create. As to the reasons for his resignation we have his own statement published in 1833.[53] During his entire stay in Congress conditions at home were such that his presence was badly needed there. His wife continued very ill with a malady that Grundy felt certain would prove fatal. Her condition grew so much worse in the spring of 1814 that her friends believed she could not survive until Grundy returned from Washington. She did survive, but her condition was little improved in the summer and he resolved not to leave her again. His resignation followed.

The regrets of the friends of Grundy over his resignation were exceeded only by the joy of his enemies. "Rats! Rats! Rats!" cried a Philadelphia paper. Troup of Georgia and Grundy of Tennessee, "both *Rats* of the first chop, have given public notice they intend to leave the ship of state, having discovered several large leaks in her bottom." [54] A Boston paper pronounced it as good news

[53] Grundy to ?, in *National Banner and Nashville Daily Advertiser,* June 21, 1833.

[54] Philadelphia *Merchants Advertiser,* quoted in Boston *Gazette,* August 8, 1814.

and added that if "all the *Grundys* were to retire from Congress there would be more chance of peace, commerce, and national prosperity." [55] The *Connecticut Courant,* though very hostile, did recognize the merits of Grundy. It placed him in the foremost ranks of the party as a reward for both his words and deeds. The tone then became harsh and sarcastic. "No man," it continued, "was more word-valiant than he; none more zealous to overthrow, sink and destroy, Old England, as far as *wind* could do it." Both before and after the declaration of war he had "discharged, in the house of representatives, tremendous vollies [*sic*] of wind artillery against the foe, and seemed well nigh resolved to take him by the neck, and shake him to pieces." His doctrine of moral treason was vigorously denounced and the following was proposed as his epitaph: " 'We can't untie the knot without the consent of Bonaparte.' " [56]

With the blessing of his friends and the curses of his enemies, Felix Grundy retired to private life, and hastened to the defense of Jason Thompson for the murder of one Mr. Cobb in the Mississippi Territory.

[55] Boston *Gazette,* August 8, 1814.
[56] Hartford *Connecticut Courant,* September 6, 1814.

Chapter V

"GENTLEMEN OF THE JURY"

IF Felix Grundy had a first-class claim to fame it was as a criminal lawyer of the West. His ability was known in Tennessee long before he made that state his place of residence, and it was never afterwards questioned. It was for the purpose of making the fullest use of his ability and skill that he relinquished the highest judicial position in Kentucky and moved to Tennessee. The Tennessee of 1808 was truly a fertile field for the practice of the art of depriving the noose of its victims. Nashville was still a frontier town and boiled with the feuds common to the West. Men shot and then thought, and the lawyer who could prevent them from receiving justice was certain of not only an extensive but a lucrative practice. Such a man was Felix Grundy.

Grundy was not highly educated but he was intelligent. His reading was extensive but never intensive. To him the practice of criminal law was an art that must be developed by the study of men rather than books. He possessed the rare ability of being able to judge men with a great degree of accuracy. His pleasing personality and his great affability won their confidence. He knew their emotions and how they could best be aroused, and once aroused he directed them with skill. Through his reasoning he made men appear as either heroes or scoundrels. He knew that

success in the practice of criminal law did not come through legal learning. Juries knew but little of the law, yet they rendered the verdict. The man who could handle a frontier jury was certain of success, and at that Grundy was a master performer. He could laugh or cry as the occasion required, and had the ability to make the jury and even the audience follow him in whichever he did. His seeming sincerity and earnestness, expressed through a voice which was "soft, persuasive and incisive, captivating and irresistible," [1] made an unlearned and emotional jury so much clay in his hands. From it he molded a decision of not guilty.

Soon after his arrival in Tennessee, Grundy was engaged to defend one David Magness in a murder trial. Magness had shot and killed Major Patton Anderson, a personal friend of Andrew Jackson and at the time of his death inspector general of the militia. The shooting had resulted from a dispute over some land warrants. Jackson was very much aroused and determined to see that Magness drew the extreme penalty. He personally employed Thomas H. Benton to prosecute the case. Grundy was the chief of the defense.

As the trial progressed Grundy conceived the idea of putting Jackson on the stand and proving by him that the deceased was a man of violent temper and that he frequently engaged in fights. The inciting of the jury against the deceased was one of Grundy's favorite methods of procedure.[2] If this did not work, his skill in cross-examining a witness was almost certain to cause the hot-tempered Jackson to commit an indiscretion which would be of use

[1] Oliver P. Temple, *Notable Men of Tennessee, 1833–1875* (New York, 1912), 61 n.

[2] Micah Taul, "Memoirs of Micah Taul," in *Register of the Kentucky State Historical Society* (Frankfort), XXVII (1929), 617.

to the defense. Jackson took the stand and Grundy asked him the direct question whether or not the deceased was high tempered and given to fighting. Jackson replied that the deceased was the "natural enemy of all scoundrels." That was enough. Grundy was through with the witness.[3]

The defense now had the information which was needed. The close friend of the deceased would not testify that he was a peaceable man. When Grundy appeared before the jury he opened his speech with a eulogy on Jackson. He pictured him as a man of unquestioned truth and honesty. Then turning quickly to the subject he declared that never before had Jackson been known to speak so ambiguously as in this testimony! What a difficult predicament was that in which the General found himself! He could not testify against his friend and yet could not stoop to lie for him; therefore, he just evaded the question. Grundy would leave it to the intelligence of the jury as to what weight such testimony should have upon the case. Jackson heard Grundy's speech, complained to Benton that Grundy's tactics were unfair, and demanded that Benton "skin Grundy alive on that point!" Benton, however, realizing the uselessness of such an attempt, merely informed the General that "he has got us down, on that point—flat on our backs." Magness was convicted of manslaughter and served a short prison sentence.[4]

Grundy's knowledge of human nature made him excel in the picking of a jury.[5] Men who could not be swayed by a passionate appeal were unwelcome on a Grundy-picked jury. The routine matters of a trial he usually left to his assistants, to whom he also committed the majority of the

[3] Augustus C. Buell, *History of Andrew Jackson* (New York, 1904), I, 235–36.

[4] *Ibid.*, 236–37.

[5] Josephus C. Guild, *Old Times in Tennessee* (Nashville, 1878), 293.

legal research. His mind was on the final appeal. It was then that he hoped, through a heart to heart talk with the jury, to wreck the legal structure built up by the opposition. One enthusiastic admirer remarked that "as to Cicero and Demosthenes, he [Grundy] could knock them into a cocked hat before a Tennessee jury." [6]

During the progress of a trial Grundy took only a very few notes on the main points. But "when the proofs were all submitted, he saw at once, with perfect intuition, the very point—or the several points—always few, however—upon which the cause must turn. To fortify and maintain these, throwing all extraneous matters to the wind, was his method." [7] When the Court adjourned for the day he would always be among the first to leave the room. From that time until after the evening meal he would mingle with those about him. He was very fond of a joke and was a good listener as well as talker. Outbursts of hearty laughter were not uncommon with him.[8] To the casual observer he appeared to take very little interest in the trial. The close observer, however, would find him studying the case while all others were asleep. Soon after completing his evening meal he would withdraw to his room. It was his practice to retire early and he was usually asleep within a few minutes. He would arise at about one o'clock in the morning and from that time until daybreak prepare the speech to be delivered before the jury.[9]

The ease with which Grundy delivered his speeches and the fact that he seldom spoke from notes caused a rumor that he spoke without previous preparation. Those who

[6] *Ibid.*, 68.

[7] "Sketches of Notable Men from the Diaries of S. H. Laughlin," in *Tennessee Historical Magazine*, IV (1918), 75. Laughlin was for many years an attorney general, frequently traveling with Grundy and sleeping in the same bed with him.

[8] *Ibid.*, 74.

[9] *Ibid.*

were closely associated with him declared that such was not the case. Before speaking on a case he always spent one or more of those early morning periods in preparation. He studied until he thoroughly understood the matter under discussion. Such intense study Grundy felt "to be a duty to his client, to his cause, and to himself, less [*sic*] by a more careless method he might perchance omit some argument, or some ground which would be beneficial to his cause." [10] The facts that he wished to stress were well fixed in his mind. He then added to those facts such ornaments of thought and word as he deemed necessary. All of this was so well assimilated that it became almost a part of him. With such a preparation and a voice which "had been so modulated by judicious discipline, as to adapt its tones most happily to the expression of all the emotions of which the human soul is susceptible," he was ready for the final plea.[11]

When Grundy appeared before a jury he was very impressive. His figure was "strikingly graceful and commanding." [12] As he looked into the eyes of the jury his own gray eyes sparkled.[13] He often looked over the jury and selected one man toward whom he directed his eloquent appeal.[14] If he was not able to sway the whole group, he would at least be certain of a hung jury. In his delivery he was never given to boisterousness but maintained rather an appealing tone. He was courteous to the opposition, used no coarse denunciations, but often indulged in humor and sarcasm. He gave the impression of being carried away by his own eloquence, arousing within him-

[10] *Ibid.*, 75.

[11] Henry S. Foote, *Bench and Bar of the South and Southwest* (St. Louis, 1876), 156.

[12] James Phelan, *History of Tennessee* (Boston, 1888), 362.

[13] Guild, *Old Times in Tennessee*, 83.

[14] Caldwell, *Bench and Bar of Tennessee*, 58.

self the same emotions he desired to arouse within the jurymen.[15] An enthusiastic contemporary declared that he had seen huge assemblies "tremble and shudder . . . the Judge on his bench forget his position, loll out his tongue, and clap his hands for joy, and refined and enlightened galleries" weep and faint "in the excess of feeling," all because of the powerful eloquence of Grundy.[16] The same person declared: "It was a great intellectual feast to hear Booth in his Richard the Third, Forrest in his Macbeth or King Lear, Miss Cushman in Lady Macbeth, or Jo Jefferson in his Rip Van Winkle, but to hear Felix Grundy in a closely contested case of homicide, when all his fires were burning, his passion aroused; to see his actions, the flash of his gray eyes, the vivid flashes of lightning bursting from his lips; at times to witness his scathing sarcasm, and then his sparkling wit: take it all in all, it was the grandest exhibition that any Tennessean ever witnessed. He found himself carried away by a storm of eloquence that was irresistible." [17] Even his enemies admitted that many a "trembling culprit . . . received the boon of life and liberty from the victorious eloquence of Mr. Grundy." [18]

The fame of this genius of the West was not limited to Tennessee alone. He was frequently called into the states of Kentucky, Missouri, Mississippi, Alabama, and Illinois.[19] A criminal felt sure of escaping the gallows if he could only engage the services of Grundy.[20] A contem-

[15] Guild, *Old Times in Tennessee*, 83.

[16] *Ibid.*, 84. [17] *Ibid.*, 83.

[18] Nashville *Republican and State Gazette*, March 22, 1832. This paper was bitterly anti-Grundy.

[19] George Perry, *Sketches by Governor Perry of South Carolina* (Philadelphia, 1887), 546.

[20] Anson Nelson, "Judge Felix Grundy" (MS. in Tennessee Historical Society Collection, Nashville, Box G2, No. 89G).

porary report of a trial in Alabama gives additional testimony of Grundy's eloquence.[21] He was called there to defend a youth who had murdered a traveler. The youth claimed to have been shooting at a hawk and accidentally shot the man from his horse. The community was convinced that it was a plain case of "foolish and fanciful experiment of a reckless and inconsiderate young man." Before Grundy had finished with his pathetic appeal which drew tears from the eyes of his hearers, the jury was convinced. The youth was freed.

On March 16, 1825, Grundy appeared in Judge Samuel Roberts' court at Edwardsville, Illinois. He had been summoned there to defend one P. H. Winchester for the murder of Daniel Smith, the recorder of Pike County.[22] In this trial Grundy exhibited all the points that made him the greatest criminal lawyer of the West. In picking his jury he refused to accept any person who had been born in any state other than Tennessee. He knew his Tennesseans and he well knew how they gave vent to their emotions when aroused. He even went so far as to accept one former Tennessean who plainly stated that he had already formed an opinion in the case. It mattered little to Grundy what that opinion was. His knowledge of men convinced him that even if the opinion was *wrong* a well-directed appeal would change it to *right*.

Winchester was connected with one of the foremost families, having married the daughter of Benjamin Stephenson, the second delegate to Congress from Illinois. The trial created much interest; even Governor Ninian Edwards was a constant attendant. Grundy had his plans

21 Foote, *Bench and Bar of the South and Southwest*, 154–55.

22 Vandalia (Illinois) *Intelligencer*, quoted in Nashville *Whig*, April 16, 1825; St. Louis *Republican*, quoted in Guild, *Old Times in Tennessee*, 295–98; Edwardsville (Illinois) *Spectator*, February 1, 8, 1825.

well laid. He arranged for many of the relatives of the defendant to attend the trial, and drilled them thoroughly on the part they were to play. In the courtroom he seated them near the defendant. They were to furnish the tears for a pathetic appeal to that emotional Tennessee jury. The drama, for it was truly one, was about to open.

At the beginning of the trial, Grundy was given an opportunity to display one of his great and frequently used talents—crying at will. The prosecution pronounced the case a desperate one. It was so desperate that the defendant had felt it necessary to send all the way to Nashville to secure the services of Grundy, "one of the most eminent lawyers in the United States." The latter then had ridden four hundred miles through the winter mud to direct the defense. Such exertion must call for a heavy fee. This gave Grundy a brilliant opportunity to begin the drama.

Raising his handsome figure to its full height, and turning his pleasing countenance toward the jury, he proceeded to explain just why he was there. It was the "cold-blooded, unfeeling, hard-hearted Yankee" in the prosecuting attorney which permitted such a supposition as had been expressed. "Thank God," he was from a section where money did not mean everything, but "where honor and the nobler impulses of the heart moved and controlled the actions of men." He had questioned whether he should make such a long trip, but when his "little flaxen-haired daughter, Malvina," put her arms about his neck and begged that he go defend the poor unfortunate man, his mind was made up. He had known the father of this man, their children had played and gone to school together, and for the sake of old friendship he considered it his duty to make the trip. Before he had finished with his pathetic story he was weeping, as was the section of relatives and even the jury.

Throughout the entire trial Grundy was all politeness. If a disputed point arose, he would immediately give in to the prosecution, assuring the Court he was glad to do so to prevent controversy and avoid "trespassing longer upon the patience of this jury and this court." He informed the opposing attorneys that he could afford to concede everything their conscience would let them take. His very politeness gave the impression that the only points upon which the prosecution could base its argument were those which the defense had been generous enough to give them. His perfect acting produced the desired effect upon the jury.

As the close of the trial drew near "curiosity was on tiptoes and every ear was open to hear the 'big gun.' " The people had heard much of the ability of Grundy as a speaker and were all set for an "intellectual feast" and were "not disappointed." Judge Joseph Gillespie, who attended the trial, thought Grundy the most "lordly man" and "consummate actor" he had ever seen, and that Napoleon had never had his troops better organized and posted than did Grundy his forces. Tears and applause always came at the right time.[23] The defendant was found *not guilty* and marched from the courthouse amid great cheers.

It was only natural that those who were defeated by the maneuvers and skill of Grundy should accuse him of unfair tactics. One historian, who has given credit to such accusations, charges that he was not "over-scrupulous" and was capable of stooping to almost any expedient in

[23] St. Louis *Republican,* quoted in Guild, *Old Times in Tennessee,* 298. The reputation made by Grundy in Illinois resulted in the legislature of that state naming a county in his honor in February, 1840. See Elihu B. Washburne (ed.), *The Edwards Papers* (Chicago, 1884), 235 n.

order to save his client from the gallows.[24] Be that as it may, numerous contemporaries testified to Grundy's character and pronounced him honorable and upright in his dealings, one who would never take unfair advantage of an opponent nor resort to abusive language.[25] He was shrewd enough to know just what it took to handle juries and then had the common sense to give it to them. No further evidence of Grundy's effectiveness is needed than the fact that, of the numerous criminals whom he defended, he lost but one case. That was the case of a notorious criminal by the name of Bennett who had murdered a Mr. Hays in Wilson County. In spite of the hopelessness of the case it was dragged on in court until finally, after a change of venue, Bennett was convicted and hanged in Williamson County.[26] In Tennessee the "Bennett Case" became synonymous with a cause that was totally without hope.

Grundy was also frequently engaged as counsel in land suits, but his success in such cases was not so marked. Litigations over land claims usually involved legal research for which Grundy had little inclination. The only complete failure Grundy ever made in a lawsuit was in one that required such research. It was his policy to persuade his colleague to open the argument and then he would put his full strength into the closing speech. The case was one for ejection of an occupant and involved the interpretation of the passage " 'being in possession of land under a

[24] Phelan, *History of Tennessee*, 362.

[25] Temple, *Notable Men of Tennessee*, 61. Washburne, who heard him argue a case before the Supreme Court in March, 1840, thought Grundy a "great lawyer and a distinguished statesman. No man of his time had so great a reputation as a criminal lawyer in the West and Southwest." See Washburne (ed.), *Edwards Papers*, 235 n.

[26] Guild, *Old Times in Tennessee*, 299.

deed or assurance of title founded on a grant.' " [27] The question was, did the legality of a deed depend upon whether or not it was directly connected with the original grant. The case was especially important since judges differed in their opinions on the interpretation of this passage.

When all proofs were in, Grundy requested his colleague, William L. Brown, to open the argument but Brown was unyielding in his refusal. Grundy, expecting that Brown would agree to make the opening speech, had neglected to examine properly the law and the decisions that had a bearing upon the subject. Being thus forced to open the argument, he made a complete failure. "If Judge Brown had opened with his clear and exhaustive exposition of the law, he would have laid the foundation upon which Judge Grundy would have built a brilliant and masterly argument." [28]

Grundy possessed exceptional ability both as a popular speaker and as a debater. He was generally recognized as the most eloquent speaker in his section, and was frequently selected by his fellow citizens to represent them in the delivery of messages of welcome or commemoration. His most prominent addresses of this type were his welcomes to General Jackson upon his return from the Creek War and from the New Orleans campaign and his oration commemorating the deaths of John Adams and Thomas Jefferson. He could adapt himself to the circumstance and the audience. He could address an educated audience as effectively as he could the most illiterate jury. One who heard him address many a concourse of people eulogistically described his delivery as "a stream of crystal water,

[27] For further information on this topic, see Chap. VIII.

[28] Guild, *Old Times in Tennessee*, 294.

flowing and rippling over a pebbly bottom through green meadows and woodlands, rather than a headlong mountain torrent." [29]

[29] Temple, *Notable Men of Tennessee,* 61.

Chapter VI

CHAMPION OF RELIEF

DURING and immediately following the War of 1812 the West reached a new high in prosperity. Into that section had flowed money for the raising and supporting of troops,[1] and hard times in the East had caused many persons to flock to the West in hope of relief. Money and new settlers tended to bring about an increase in the value of lands. That value was further increased in the Southwest by the extension in the production of cotton. The fact that England was eager to purchase American cotton at prices ranging as high as thirty-four cents [2] had furnished a great stimulus for an increase in production. Pressure of these forces led to overexpansion, inflation, and much speculation in the Tennessee region. The crash came in 1819, leaving both farmer and merchant in a desperate plight.

Most of the farming in Tennessee was done on a small scale, and the average producer could not ship his cotton directly to New Orleans. As he was forced to sell at an early date to finance another crop, the sale was made to the local merchant, and the banks handled the paper and

1 Abernethy, *From Frontier to Plantation in Tennessee,* 225.

2 Thomas P. Abernethy, "Andrew Jackson and the Rise of Southwestern Democracy," in *American Historical Review* (New York), XXXIII (1927), 65.

came in for a large part of the profits.[3] The panic caught many persons heavily involved with the banks. Debts due the Nashville Bank and its branches alone reached the excessive figure of $1,500,000.[4] Thomas Talbot, a stockholder in both the Farmers and Mechanics Bank and the Nashville Bank, offered to sell one hundred shares of stock to anyone who would take up his notes in those banks to the amount of the stocks.[5] Persons who owed the banks were subject to suit by them and yet could not force their creditors to accept anything other than specie in payment of debts.

As a safeguard against the draining off of its specie, the Farmers and Mechanics Bank of Nashville suspended specie payment on June 18, 1819, and was followed by the Nashville Bank on June 22. At a public meeting sponsored by the banking interest and held at the Nashville courthouse on June 23, resolutions were adopted urging all banks to suspend specie payment but insisting that the people not allow such a step to "impair the credit" of bank paper.[6]

Rumor was quickly afloat that all the Nashville banks were insolvent and would never resume specie payment. The people were panic stricken. What had become of all of the money anyway? The Nashville *Gazette* said that it had gone "for an indulgence in the most unbounded extravagance—the purchase of articles designed more for show than for use—for the poor gratification of exhibiting stile [*sic*] beyond the stile living neighbors—for the momentary gratification of having an equippage to out-

[3] Thomas P. Abernethy, "The Early Development of Commerce and Banking in Tennessee," in *Mississippi Valley Historical Review* (Cedar Rapids), XIV (1928), 312.

[4] Report published in Nashville *Gazette*, June 26, 1819.

[5] *Ibid.*, July 17, 1819.

[6] *Ibid.*, June 19, 23, 1819.

shine, the object of yesterday's amazement, and which in turn is to be outshone to-morrow. And for these and such like gratifications, men of sense, capable of reflection, have suffered their pride to wage an exterminating war upon their purses." [7] Had not peddlers of "shawls a yard square and an inch thick each, three for a dollar" carried off $40,000 in specie from the Fayetteville Bank alone during the first six months of 1819? The gullible public had become the "prey of the mercenary, sharp, keen cleverness of the importer of *cheap goods.*" [8] The *Clarion* blamed the plight of the people upon the "unprecedented influx of foreign merchandise" which had been going on for the past three years.[9] All agreed that the people were involved beyond their ability to pay.

Flying rumors and conflicting reasoning relative to the cause of the panic merely added to its seriousness. The Nashville branch of the Bank of the State of Tennessee closed the safe on its specie on June 29, and by July every bank west of the mountains had suspended specie payment.[10] All efforts to stimulate confidence in paper were futile. Willie Barrow advertised to sell his property consisting of numerous houses and lots in Nashville in order to pay his debts, but added that since the banks were "breaking as well as individuals," he wished no bank notes. Thomas Yeatman, a Nashville merchant, gave notice under the heading "Pay Your Debts" that those who did not pay up immediately would have their credit shut off.[11] But debt-burdened citizens of Middle Tennessee were void of the means required to discharge their obligations.

[7] *Ibid.*, June 26, 1819.
[8] *Ibid.*, July 14, 1819.
[9] Nashville *Clarion and Tennessee State Gazette*, June 29, 1819.
[10] Nashville *Gazette*, June 30, 1819.
[11] *Ibid.*, July 31, 1819; Nashville *Whig*, September 25, 1819.

In desperation the debtor class turned to the legislature. The *Clarion* believed that that body should seriously consider a measure to suspend the "collection of debts by execution." Certainly the only hope of the people lay in the postponement of their obligations.[12] The Nashville *Whig* thought that the legislature must take steps to correct the deranged condition of the "monied institutions." [13] Candidates for the legislature read the signs of the time. On July 19 the Davidson County candidates addressed the people from the platform at the courthouse. Numerous plans were proposed for relieving the distress and improving the state of society. Everything from banks and banking to literature was discussed. Some of the auditors "were converted, some enlightened and some amused." [14]

Felix Grundy had been in private life since his resignation from Congress in 1814. In 1819, amid the loud cry for relief, he offered himself as a candidate for a seat in the lower house of the legislature. The reasons that prompted this step are obscure. Neither the desire for prestige nor financial gain could have been among them. He either believed that his ability and experience were such as would be of great assistance in solving the problems that had been produced by the panic, or else he recognized an opportunity to enhance his popularity by skillfully directing the enthusiasm which had been generated. Whatever his purpose might have been the people rallied to him, and he took his seat as a representative from Davidson County when the legislature convened at Murfreesboro, September 20, 1819.

On the second day of the session Grundy introduced a

[12] Nashville *Clarion and Tennessee State Gazette*, June 29, 1819.
[13] Nashville *Whig*, September 18, 1819.
[14] Nashville *Gazette*, July 21, 1819.

series of resolutions which foretold the nature of the legislation to follow. The preamble to those resolutions stated that "the present deranged state of the currency of the country, as well as the embarrassed condition of many of the citizens of the state, require the early and serious attention of the legislature." The resolutions provided for the appointment of a joint committee to investigate the conditions of the different banks of the state, and gave it power to call for such persons and papers as were needed. Second, it was stated that "the principal banks and their branches ought to be prohibited from collecting, or attempting to collect, any note or notes hereafter executed, except those in which they may have acquired an interest, in the ordinary course of transacting their business." Third, it was suggested that creditors be prohibited from forcing their debtors to pay in specie, and that a law should be enacted which would compel the creditors either to accept current state bank notes or forfeit the right to imprison the debtor or sacrifice his property.[15]

From an economic standpoint East Tennessee was quite different from that portion of the state west of the mountains. The white population of Middle Tennessee [16] was only twice that of the eastern part, but its slave population was more than five times as great. The latter section, not being a cotton growing region, had been but slightly affected by overexpansion and speculation. Its people stood in little need of relief and considered the suspension of specie payment merely a plan to evade obligations. This view was also held by some persons west of the mountains. A petition from Warren County, which

[15] *Journal of the House of Representatives* (Tennessee), 1819, pp. 22–23. Hereafter cited as Tennessee *House Journal*.

[16] That section of the state which today is commonly spoken of as West Tennessee was not opened to white settlers until the Chickasaw treaty of 1818.

was presented to the House of Representatives on the same day that Grundy offered his resolutions, demanded that banks be placed upon the same "constitutional equality with the citizens." This, it pointed out, could be done only by compelling the banks to redeem their notes in specie. Should a bank refuse, it ought to be forced to pay interest on the unpaid notes. To protect those who held notes, the personal property of the stockholders should be made liable for notes issued.[17]

This plan immediately found strong advocates in the legislature. Early in the session Pleasant M. Miller of Knox County, sharing this hostility and probably anticipating the demand for legislative action in favor of inflation, introduced a bill [18] providing that if a holder of a bank note or bill on any bank of the state should present the same where payable and be refused payment, the president or cashier of the bank must issue a certificate for the full value of the note. Such certificates were to bear 8 per cent interest from the time issued until paid and were to be negotiable. The bill also provided that if the bank refused to issue the 8 per cent certificate, the holder of the note could sue for the full amount with 12½ per cent interest plus 12½ per cent damage.

Miller's bill met with immediate and violent opposition from both the bankers and the friends of inflation. The plan would be certain to reduce the amount of paper in circulation since it forced the banks to pay 8 per cent interest on all notes that they were not able to redeem when presented. Such a contraction of the circulating medium would bring no relief to debt-burdened Middle Tennessee.

[17] Nashville *Gazette*. September 25, 1819.

[18] Tennessee *House Journal*, 1819, p. 73; Original Bills (MSS. in Tennessee State Archives, Nashville).

Grundy assumed the leadership of the opposition and engaged in a heated debate with Miller. The speeches were not preserved but the editor of the *Gazette* declared that the "weight of the argument was certainly on the side of Grundy & Co.—but its plausibility was with Mr. Miller." [19] Grundy made an effort to strike out the main provision of the bill with the hope of destroying it and supported his motion with a lengthy speech, but the Miller group was strong enough to defeat the proposal. Grundy next united with Sampson David of Campbell County in an effort to postpone the date of enforcement until January 1, 1821, but that also failed.[20]

J. C. Mitchell of Rhea County, although opposed to Miller's plan to decrease the amount of circulating medium, desired to see bank notes better secured. His plan was to make all real and personal property of every stockholder "chargeable for all and every debt due and owing" by the bank. If the president or cashier of a bank should refuse to pay the holder of a bill in gold or silver or in other bills acceptable to the holder, the latter could sue for the full amount "with same interest and damage recovered by banks from individuals." [21]

Mitchell's plan was no more pleasing to the relief forces than that offered by Miller, and so Grundy made an unsuccessful attempt to table both the bill and the amendment.[22] The House later rejected the amendment. Grundy, seeing that the odds were against him, then attempted to ease the effects of the bill upon the present situation by making it apply only to debts contracted after its passage. He offered an amendment in lieu of the bill

[19] Nashville *Gazette*, October 27, 1819.

[20] Tennessee *House Journal*, 1819, pp. 132–34; Knoxville *Register*, November 2, 1819.

[21] Tennessee *House Journal*, 1819, pp. 181–82. [22] *Ibid.*, 182.

which would make the real and personal property of stockholders chargeable for all debts due by their bank, but to make it apply only to debts "hereafter contracted, or notes hereafter put into circulation by the banks." [23] But his proposal never came to a vote since the House refused to strike out the original bill. After a change in the interest rate from 8 to 6 per cent, the Miller bill passed the House.[24] When it was called up for the third and final reading, Grundy again made an unsuccessful attempt to have the bill tabled until the close of the session.

The result of the voting indicated that sectional lines were fairly well drawn. Twenty votes were cast in favor of the bill but three only came from what could be considered as the lowland counties of Middle Tennessee and they were from the outer edges. Of the fourteen voting against the bill all except two were from the central section.[25] In the Senate the votes showed a similar division. The bill was rejected, but all East Tennessee senators except three voted for it.[26]

Meanwhile the relief forces in the House moved to offset the probable effect of the Miller bill. Those who were in debt to the banks must be protected against retaliation. With this in view William Williams of Davidson County brought forward a bill providing that if any bank of the state should obtain judgment against any person, the execution of it should not be made until the lapse of two years, unless the bank should endorse on the execution that its own notes would be acceptable in payment of the judgment. The bank was also to agree to accept the notes of the Bank of the State of Tennessee and

[23] *Ibid.*, 182–83. [24] *Ibid.*, 183–85.

[25] *Ibid.*, 268.

[26] *Journal of the Senate* (Tennessee), 1819, pp. 305–306. Hereafter cited as Tennessee *Senate Journal*.

the Nashville Bank and such other notes as passed at par with them.[27]

Those who had voted to force the banks either to redeem their notes in specie or to pay 6 per cent interest on the same certainly could not afford to oppose a bill to force these banks to receive their own notes in payment of debts. Apparently there was little opposition to the passage of this bill for the yeas and nays were not demanded.

Encouraged by the probable success of the Williams bill and having in mind those persons who were indebted to private individuals, Grundy suggested a plan which would extend the "stay" to executions on any judgment. The pressure of general distress was having its effect, and the relief bloc in the House was growing stronger daily. When this proposal passed by a vote of twenty-four to ten, John Tillman of Bedford, John Perkins of Warren, and Littlebury Hughes of Smith cast the only Middle Tennessee votes recorded with the negative.[28]

Rates charged by those who had money to lend were so high as to consume practically all the profits of agriculture and business. The next step in the relief program was to curb those who practiced the "taking of excessive Usury." It was proposed that the legal rate of interest be set at 6 per cent; to charge a higher rate would subject the lender to a fine, the amount of which would be assessed by the jury.[29] Mitchell proposed to strike out the entire bill and substitute in its stead one repealing all laws on usury. He contended that a man had just as much right to get the best price for the use of his money as the farmer did for

[27] Tennessee *House Journal*, 1819, p. 209; Tennessee *Public Acts*, 1819, p. 40.

[28] Tennessee *House Journal*, 1819, p. 245; Nashville *Gazette*, October 20, 1819; Tennessee *Public Acts*, 1819, pp. 44–45.

[29] Tennessee *Public Acts*, 1819, pp. 57–58; Tennessee *House Journal*, 1819, p. 115.

his horse. To restrain a man in the use of his money would be to infringe upon his liberties and rights. Grundy opposed Mitchell in a speech "characterized by his usual eloquence." Property value, he argued, was determined by the use a man had for the property, but money value was the same in all hands. If no limit should be placed upon the use of money, the lender would grow rich at the expense of the unfortunate borrower and to the detriment of the country. The nature of society demanded that men be restrained. The Mitchell proposal was lost thirty-seven to one [30] and relief recorded another victory.

The first effort to relieve debt-burdened Middle Tennessee had been only partially successful. Some temporary relief had been obtained by the endorsement law. No creditor could continue to demand specie without the danger of a two-year stay of execution. The usury law had also given the borrower some protection against those who would charge excessive rates on loans. But nothing was done toward increasing the circulating medium of the country.

A second important topic with which this session of the legislature had to deal was the disposition of public lands. While the Tennessee territory had belonged to North Carolina, that state had set aside a Military Reservation. The lands within its bounds were to be granted to North Carolina's Revolutionary soldiers as compensation for their services. All other lands, except those within the Cherokee Reservation which covered the region east of the Tennessee and south of the French Broad, were subject to purchase by any citizen. Thus as a result of those two policies many warrants were issued. When North Carolina ceded to the Federal government the lands that

[30] Nashville *Gazette*, October 30, 1819; Knoxville *Register*, November 9, 1819; Tennessee *House Journal*, 1819, p. 217.

THE GRUNDY HOME, LOCATED ON THE SITE OF THE PRESENT POLK APARTMENTS AT THE CORNER OF SEVENTH AVENUE AND UNION STREET, NASHVILLE. IN THE SETTLEMENT OF THE GRUNDY ESTATE IT WAS PURCHASED BY PRESIDENT JAMES K. POLK.

were soon to comprise the state of Tennessee, she did so on condition that the land claims of her Revolutionary soldiers be respected. If there was not enough land within the Military Reservation to satisfy those claims, then they were to be satisfied by other unappropriated lands. North Carolina also reserved the right to continue to make grants on warrants that had already been issued.[31]

Such a situation was certain to lead to a quarrel with the new state of Tennessee. In 1806 the three parties concerned in Tennessee lands—Tennessee, North Carolina, and the United States—reached an agreement. A Congressional Reservation line was drawn to separate the lands of the United States from those belonging to Tennessee. This line began at the intersection of the Elk River with the Tennessee-Alabama boundary and ran due north to the present-day Columbia on Duck River. It continued down that river until it struck the boundary of the Military Reservation, followed that boundary to its intersection with the Tennessee River, and then turned down that river to the Tennessee-Kentucky line.[32] All lands lying west and south of the Reservation were reserved for the United States. Those north and east of the line were ceded to Tennessee provided such portion as was necessary should be used in satisfying the North Carolina claims; 640 acres out of every 23,040 be set aside for the use of schools; and two 100,000-acre tracts from the territory south of the French Broad be reserved for the support of a college in each of the two sections of the state and an academy in each county. What lands were left could be sold by Tennessee at a minimum price of $2.00 an acre. The last provision did not apply, however,

[31] Philip M. Hamer, *Tennessee: A History, 1673–1932* (New York, 1933), I, 256.

[32] *Ibid.*, 257.

to the squatters on lands lying south of the French Broad who might be granted pre-emption rights as low as $1.00 an acre.[33]

Tennessee reaped very little revenue from this new grant of land, for the North Carolina claims seemed numberless and swallowed up the lands as fast as the Indian titles could be extinguished. Congress made a further cession in 1818 when it threw open to the warrant holders the lands within the Reservation and those south of the French Broad and east of the Tennessee as soon as Indian titles were extinguished. By treaties of 1817 and 1819 the Cherokee ceded to the United States all their lands in Tennessee except a small district in the southeastern part. Also by treaties of 1816 and 1818 the Chickasaw ceded to the United States the southwestern part of Middle and all of West Tennessee.[34] The small district held by the Cherokee was the only territory within Tennessee that was still held by Indians.

That was the situation relative to public lands when Grundy entered the legislature in 1819. Governor Joseph McMinn called attention to the necessity of immediate action on the land question, and Grundy moved that the portion of the Governor's message pertaining to lands south and west of the Tennessee River be referred to a special committee.

As chairman of this committee, Grundy reported a bill providing for the adjudication of North Carolina land claims and for satisfying those claims by appropriating vacant lands south and west of the Congressional Reservation line. The Reservation was to be divided into districts and a surveyor assigned to each. Priority of entry was to be determined by a drawing which would take place the

[33] *Ibid.*, 257–58. [34] *Ibid.*, 246–48, 259.

first Wednesday in December, 1820. No provision was made for schools as had been required by the agreement of 1806.[35] It was the warrant holder who demanded satisfaction, and many warrants were held by Tennesseans.

During the course of debate on the bill, the question of the squatter occupied a prominent place. Those persons, of course, had no legal right to the lands which were now to be used to satisfy grants, but they were there and had made some improvements. What should be done with them? Should they be removed or allowed to enter their lands? If removed, should they be paid for their improvements? John Clack of Giles County offered an amendment which would give preference of entry to squatters who had been on the land prior to May, 1819, provided the entry was made before the drawing for priority. The squatter would be eligible to enter a quantity of two hundred acres or more. If for any reason the squatter should not be able to procure a warrant in the time required by law, any person entering the land would be forced to pay him for his improvements.[36]

Grundy opposed the amendment in a speech of "length and great force of reasoning." His speech was not printed but the Nashville *Gazette* declared his argument to be "clear, conclusive, and characterized by unusual eloquence." [37] It was the power of the warrant holder that made Grundy oppose giving preference to squatters. If he held warrants of his own it is not known, but it is certain that many of his friends did.

During the heat of this debate, Joseph Brittain of Bed-

[35] Tennessee *House Journal*, 1819, p. 23; Henry D. Whitney (ed.), *The Land Laws of Tennessee* (Chattanooga, 1891), 200–20.

[36] Tennessee *House Journal*, 1819, p. 249; Nashville *Gazette*, November 3, 1819. This amendment was framed by Miller.

[37] Nashville *Gazette*, November 3, 1819.

ford County exposed what he declared to be a bargain between two members of the House. He stated that he had overheard a conversation between Peter Kindall of Steward and Humphreys counties and Miller in which the former declared he could not vote for the Clack amendment. Upon being asked why, Kindall had replied that he had a friend who had come into possession of a valuable salt lick shortly before September 1, and he wished him protected. Therefore, he could not support the amendment unless the date was changed from the first Monday in May to the first Monday in September. Miller had agreed to such a change in order to get Kindall's support for the amendment.

Miller bitterly denied that such a bargain had been made, and in an open letter declared that Brittain had once been a bitter enemy of Grundy but had lately been "fairly taken" by that "gentleman of pleasant manners" due to his opposition to the Clack amendment. He charged that right at that time Brittain had a thousand-acre warrant he was trying to locate to the best advantage and he desired no opposition from squatters. Having become "wedded" to Grundy, he had turned his hatred toward Miller.[38] Bargain or no bargain the date was changed to September 1.

If there were a bargain, Grundy ruined Kindall's portion by tacking on to the bill an amendment providing that no person should be permitted to enter land which included a salt spring and that a squatter's claims to such springs should not be allowed. Neither was he content with the amendment, for he immediately sponsored a separate bill which required surveyors to locate salt springs and licks on lands south and west of the Con-

[38] Knoxville *Register*, December 28, 1819; Shelbyville *Herald*, quoted in Nashville *Gazette*, February 19, 1820.

gressional Reservation line and made it unlawful for surveys and grants to include any.[39]

In spite of Grundy's opposition, the Clack amendment was accepted by the House twenty-one to sixteen. The Senate was not favorable and struck the amendment from the bill. A compromise then followed. When the bill became a law it provided that the country was to be sectioned into townships five miles square. Squatters who had been on their lands prior to September 1, 1819, were to be allowed a preference for 160 acres of land.[40] Grundy was made a member of the committee to adjudicate the claims.

Because Grundy opposed preference to squatters, there is no reason to class him as favorable toward speculation. He merely believed that those who had earned or purchased titles to good lands should have them rather than the man who just moved in and took possession. He favored defending the rights of the would-be farmer but he did not favor protecting those who handled large land warrants for the purpose of speculation. He also opposed the practice of dividing large warrants and thus enabling the holder to take up all the good and exclude the poor lands. To guard against such a practice he sponsored a bill to prevent the division of a warrant. Thus after its passage a person holding a large warrant was forced to locate his land in one block, taking rich and poor land as it came.[41] So fearful was he that registers would permit warrant division before his bill could be passed, he rushed through a resolution declaring that the registers "ought not to divide or subdivide land warrants or certifi-

[39] Tennessee *House Journal*, 1819, p. 250; Tennessee *Public Acts*, 1819, pp. 99–100.

[40] Tennessee *House Journal*, 1819, p. 249; Whitney (ed.), *Land Laws of Tennessee*, 200–20.

[41] Tennessee *Public Acts*, 1819, p. 38.

cates of survey, until legislative provision be made on that subject." [42]

With the opening up of new territory to warrant holders and with North Carolina continuing to issue warrants, a mad scramble for location was certain to follow. It was inevitable that such a scramble would lead to conflicting claims. In case of conflicts, Grundy advocated protecting the one in possession of the land if such possession was based upon a legal claim and had been undisputed for a number of years. To quiet the citizens in their possessions and to avoid future litigation, Grundy sponsored a bill providing that seven years of undisputed possession of lands held on grants by either North Carolina or Tennessee would forever bar all other claimants. Further, if any person possessed a title to any land, tenement, or hereditament and failed to avail himself of the same within seven years, he should be forever barred. Persons, however, who had been disqualified from suing due to minority, insanity, imprisonment, or absence from the United States could enter suit any time within three years after qualifying, even though the seven years had expired.[43]

As has already been noted, the Cherokee in 1819 ceded to the United States the remainder of their lands in Tennessee except a small reservation in the southeastern part of the state. Thus the lands between the Hiwassee and the Little Tennessee rivers became the property of the state of Tennessee according to the agreement of 1806. This Hiwassee District was not subject to the location of North Carolina land claims, hence it could be disposed of by the state of Tennessee in any way the legislature should see fit.

[42] Tennessee *House Journal*, 1819, p. 51.
[43] *Ibid.*, 236; Tennessee *Public Acts*, 1819, pp. 53–55.

Early in the session a committee was appointed to investigate and recommend methods for disposing of those lands. The committee reported sundry resolutions relative to the Cherokee lands, one of which provided that "six hundred and forty acres be laid off as near the centre of each township in said country as the quality of the soil will admit for the use of schools forever." This resolution was accepted by the House thirty-four to six with Grundy voting in the negative. Another resolution provided for the sale of the lands to the highest bidder, and that the same should be paid for in installments. Miller objected to the credit system and attempted to force payment in cash, but the House voted thirty-six to three in favor of rejecting his proposal. Grundy voted in the affirmative.[44]

It was due to the efforts of Grundy that the House accepted a system of credit which provided for a down payment of one tenth and the other nine tenths to be paid within ten years. He also supported a resolution limiting purchases to 640 acres for one person with an additional 320 acres for each child, and then moved to have all the resolutions recommitted with instructions to report a bill.[45] The committee reported a bill which was then referred to a special committee with Grundy as chairman and both Miller and Mitchell as members.

During the course of discussion in the committee, Mitchell proposed that after the lands had been sectioned and quarter sectioned, squatters should be allowed a "priority of entry for a limited time" for the quarter section upon which they were located. If the squatters did not enter the land then it should be opened to anyone for a period of time at the same price. The price was to be decreased twenty-five or fifty cents at the close of each period of six months until it should reach a minimum of twelve

[44] Tennessee *House Journal*, 1819, pp. 110–13. [45] *Ibid.*, 112–13.

and a half cents per acre. The right of pre-emption was to be kept up for a limited time during each six-months period.[46] It is readily seen that Mitchell's proposal involved both preference to squatters and graduated land prices. Mitchell argued that the competition for good lands would insure the maximum price for lands of that class. Only those lands of inferior quality would sell within the lower price ranges. But the greatest advantage, he thought, would be the removal of the credit evil which had been experienced by the United States in the disposal of lands. His proposal, however, was to get no further than the committee, for both Grundy and Miller treated it "with a levity bordering on ridicule." [47]

As finally passed, the bill provided for the division of the land into townships six miles square. When the work was finished, the Governor was to give, by proclamation, three notices of the sale which was to be held on the first Monday in November, 1820. The lands were to go to the highest bidder who was to pay one fourth down and take care of the remainder by installments within the next ten years. Purchases were limited to 640 acres plus 320 for each child, and in case of violation of this provision both the land and the amount paid down were to be lost by the purchaser. In case the commissioners in charge of the sale should discover a combination for the purpose of monopolizing the lands, they were authorized to stop the sale. It was further provided that should the purchaser default in either payment or interest, the land was to be resold and the amount above that due the state would be returned to the owner.[48]

[46] James C. Mitchell to Thomas H. Benton, March 28, 1829, in *American State Papers, Public Lands,* V, 515.

[47] *Ibid.*

[48] Tennessee *Public Acts,* 1819, pp. 88–97; Knoxville *Register,* November 16, 23, 1819.

Thus, neither pre-emption nor education found a place in the act. Persons who had voted for pre-emption on the Chickasaw lands did not see fit to do so on lands from which Tennessee hoped to secure a handsome return. It was dollars that were wanted, not freeholders with educational advantages; and Grundy, the champion of relief, was no exception to the rule. It was not freeholders in East Tennessee but relief in Middle Tennessee that Grundy desired.

Chapter VII

ARBITER IN THE KENTUCKY–TENNESSEE BOUNDARY DISPUTE

NORTH CAROLINA and Virginia were never able to reach a definite agreement as to their boundary line west of the mountains, and the new states of Tennessee and Kentucky inherited the dispute. While the Revolutionary War was in progress the two mother states had attempted to extend their boundary line west of the mountains. For that work, North Carolina appointed Colonel Richard Henderson and William B. Smith, and Virginia designated Daniel Smith and Thomas Walker. Those commissioners were to extend the line along the parallel of 36° 30′, but after reaching Carter's Valley, a distance of about forty-five miles, the two sets of commissioners disagreed and separated. Each group ran a line. The one run by the North Carolina commissioners (the Henderson line) was marked no farther than the Cumberland Mountains. The Virginia commissioners ran their line (the Walker line) south of the Henderson line as far as the Tennessee River. The commissioners were not authorized to go beyond the Tennessee. However, they marked the termination of the Walker line on the Mississippi River, but did not survey that portion between the Tennessee and the Mississippi.

Because of poor surveying, the Walker line gradually inclined northward as it ran westward. From the parallel

of 36° 34′ on the eastern border of Tennessee, it varied to 36° 40′ by the time it reached the Tennessee River. By direct line, this was about twelve miles too far north. However, the Henderson line which, as far as it extended, lay north of the Walker line was even farther wrong.

Since the two sets of commissioners had disagreed, nothing immediately resulted from the work. The session of the North Carolina legislature of 1789, which ceded the state's western lands to the United States, agreed to accept the Walker line. As it was agreed that all acts of that session should bear the same date, there was left a gap for future trouble, which was not long in developing.

In 1792 William Blount, the territorial governor of Tennessee, rejected the Walker line as the northern boundary of Tennessee on the ground that the resolution adopted by the legislature of North Carolina at the time of cession was not a legal confirmation. He refused to accept any boundary south of the Henderson line. This decision was followed by a proclamation to that effect and was answered by a proclamation by the Governor of Virginia declaring jurisdiction to the Walker line. There the matter rested when both Tennessee and Kentucky became states.

A few years later Kentucky discovered that even Walker's line was far north of 36° 30′ which she maintained the mother states had agreed upon as the boundary. Several subsequent attempts were made to settle the question but without success. Finally, in 1818 the Kentucky legislature passed an act repealing all that had ever been done toward settlement and declared that henceforth she would consider the true 36° 30′ as the boundary.[1]

[1] William Robertson Garrett, *History of the South Carolina Cession and the Northern Boundary of Tennessee* (Nashville, 1884), 19 ff.

In February, 1819, the legislature of Kentucky authorized the Governor to appoint commissioners to run the line from the Tennessee to the Mississippi along the parallel of 36° 30′. He was to notify the Governor of Tennessee of his intentions and request that state to participate. However, if Tennessee failed to do so, the Kentucky commissioners were to run the line themselves.[2] But the Tennessee legislature was not in session, and the Governor possessed no authority to comply with the wishes of Kentucky on this matter. The Governor of Kentucky then proceeded to appoint Robert Alexander and Luke Munsell as commissioners and ordered the line run.[3] It was Tennessee's move next.

The Tennessee legislature of 1819 realized the importance of a final settlement of the question. An agreement was more important than ever since the Indian titles in the region west of the Tennessee were being extinguished. Before the session closed, an act was passed providing that two persons be chosen by that body as commissioners to attend the next session of the Kentucky legislature. They were to have power to treat with appointees of that body concerning the boundary question. The Tennessee legislature pledged itself to ratify whatever settlement the commissioners made, and that the same would become binding when ratified by the Kentucky legislature.[4] Felix Grundy and William L. Brown were appointed commissioners.

When Grundy and Brown arrived in Kentucky, the legislature of that state appointed John Rowan and John

[2] Kentucky *Public Acts*, 1819, p. 719.

[3] Message of the Acting Governor of Kentucky, published in the Nashville *Whig*, December 22, 1819; Kentucky *Senate Journal*, 1819, p. 19.

[4] Tennessee *Public Acts*, 1819, pp. 104–105.

J. Crittenden to serve as commissioners to treat with them. Those two men were well known to the Tennessee commissioners. The former had been a classmate of Grundy at Bardstown and had also served with him in the Kentucky constitutional convention of 1799.[5] While waiting for Rowan and Crittenden to get ready for their task, Grundy and Brown spent the time collecting material on the boundary question. Chief among those documents collected was a copy of the report made by Walker and Smith to the Virginia House of Delegates. From that document Grundy and Brown learned that those men had been authorized to run the line only as far as the Tennessee River, and what they did beyond that point was without authority. They next investigated to see whether the line recently run by Alexander and Munsell between the Tennessee and the Mississippi rivers was the true 36° 30′ designated in the North Carolina charter.[6]

Alexander and Munsell were found to be high type men and experts at that kind of work. They had taken plenty of time and care in running their line, and the instruments used were of the best grade. Grundy and Brown were convinced that the job was well done. They were further influenced in their conviction by the knowledge that Major John Strother and Meriwether Lewis had shown that the Walker line was several miles north of 36° 30′. Since, at home, they had heard no denial that the Walker line was too far north and only a small amount of hostility expressed to the newly marked Alexander and Munsell line, Grundy and Brown felt they had a basis

[5] *Biographical Encyclopedia of Kentucky* (Cincinnati, 1878), 717.

[6] Report of Grundy and Brown to the Governor of Tennessee, April 17, 1820, in Nashville *Whig*, May 31, 1820.

upon which to rest an agreement. They concluded, therefore, not to question the accuracy of the Alexander and Munsell line during the negotiations.[7]

The Kentucky commissioners being ready, negotiations began. Those gentlemen desired that all communications be put in writing, but the Tennessee representatives protested that it would make the negotiations too formal. What Grundy and Brown desired was a thorough and frank discussion of the question and then an agreement. It was agreed not to resort to written communication until further notice, and Tennessee led off with the proposal that Walker's line be "absolutely established" east of the Tennessee. The line should be then extended from the Tennessee to the Mississippi. Kentucky was to have the soil between the new line and the Alexander-Munsell line and Tennessee was to have jurisdiction over the same region.[8] It is hardly probable that Grundy and Brown hoped for such an agreement but they were placed in the delicate position of leading off. Kentucky's previous attitude made the rejection of such a proposal a certainty.

The state's answer was a refusal. As a substitute it was proposed to recognize the Walker line east of the Tennessee if Tennessee would surrender an amount of land south of the Alexander-Munsell line equal to that lying between Walker's line and 36° 30′. This being rejected, Rowan and Crittenden proposed that the Alexander-Munsell line be accepted west of the Tennessee and that the line east of the river follow the Walker line until the Cumberland was reached; from that point it was to run south to 36° 30′ and thence east along that line.[9] But to Grundy and Brown, this proposition was more objectionable than the other. It would not be so bad to surrender

[7] *Ibid.* [8] *Ibid.* [9] *Ibid.*

land in the west which was populated by Indians, but to give up land east of the river would be giving up population too. Such an act could never be explained back home.

No progress having been made, the four commissioners agreed that Grundy and Brown should write out "their ultimate proposition." In the course of the discussion Tennessee's strongest arguments were put forward. It was insisted that Tennessee's legal right to the territory south of Walker's line "was deducible from the acts of the legislatures of the different states; from legislative recognition; from the acts of the states through their officers, and from the long acquiescence of Virginia and Kentucky in the possession of that territory" by Tennessee. Was not the Walker line run by the Virginia commissioners? Virginia had never attempted to claim beyond that line; and, by the Act of 1791, she had declared Walker's line to be her southern boundary. North Carolina had also accepted that line, and Tennessee and Kentucky had regarded it as the line when marking off counties and erecting towns. Grundy and Brown further insisted that even if Kentucky could show a clear title to the disputed territory south of the Walker line, she ought in the name of justice to refrain from attempting to obtain it. The inhabitants were attached to Tennessee and her institutions, and were unwilling to be joined to Kentucky. To force them to become a part of that state would be nothing short of a calamity.[10]

Following this argument the Tennessee commissioners submitted their "ultimate proposition." Walker's line as far as the Tennessee was to be accepted, and from that river to the Mississippi the boundary was to run along the line marked by Alexander and Munsell. The center of the Tennessee was to be the line of jurisdiction from the

[10] *Ibid.*

Walker line up to the Alexander-Munsell line. All islands within the river were to be the property of Tennessee. North Carolina grants north of the Alexander-Munsell line, provided the grant or the claim upon which it was based had originated prior to the Cession Act, were to be valid if they did not conflict with a Virginia claim. A similar provision was to be made for Virginia claims south of the Walker line.[11]

Rowan and Crittenden refused to believe this proposal was "ultimate." They called upon Grundy and Brown for confirmation, and at the same time reduced to writing the two former proposals made on the part of Kentucky.[12] The reply from Grundy and Brown confirmed their proposal as being "substantially" their ultimate proposition, and at that point the Kentucky commissioners disagreed. Crittenden favored accepting the Tennessee proposition with a few alterations but Rowan refused. The best the two could do was to propose that the question be arbitrated, but this was immediately rejected by Grundy and Brown.The Tennessee commissioners reasoned that the best Tennessee could hope for as a result of such an arbitration would be the establishment of Walker's line east of the Tennessee. Hoping for more, they refused to arbitrate,[13] and the negotiations were broken off.

The two Kentucky commissioners, being unable to agree, made separate reports to the legislature. Crittenden told that body he believed the matter could have

[11] *Ibid.* Prior to this point all negotiations had been verbal, but subsequent negotiations were put in writing.

[12] Complete correspondence between the commissioners was published in the Nashville *Whig*, February 16, 1820, and also in pamphlet form under the title, *The Message of the Acting Governor* [of Kentucky] *to the House of Representatives . . . on the Subject of the Boundary Line, with the Reports of the Kentucky Commissioners* (Frankfort, 1820).

[13] Report of Grundy and Brown, in Nashville *Whig*, May 31, 1820.

been successfully settled if the two Kentucky commissioners could have agreed. He was in favor of accepting the Tennessee proposition provided a few changes were made, and Grundy and Brown had assured him that those changes were possible. He would be willing to accept the Tennessee proposition provided the banks of the Tennessee instead of the center of that river were made the boundary between the Walker and Alexander lines, thus giving the two states concurrent jurisdiction over the river. As to the land claims, he believed Tennessee would be willing to recede from her position even to the point of no agreement, and to allow each individual claimant to manage the matter in such a way as he saw fit.

As to the legal boundary, he was convinced that the parent states considered the Walker line as the boundary. If they accepted it, surely the descendants should do likewise. It was true that both Kentucky and Tennessee had marked off their counties and towns with reference to the Walker line. The changing of that line to a point farther south would "confound and endanger individual rights" and in the end serve to "coerce a reluctant people into subjection to our government."

But even if Kentucky persisted in her claim, what could she do about it? Was not Tennessee in possession of the territory, and had she not been for many years? Congress had refused to authorize the Supreme Court "to take cognizance" of the question. Kentucky would ultimately be the loser. Therefore, in a feeling of "magnanimity and generosity," he believed Kentucky ought to relinquish her claim on that territory.[14]

[14] For Crittenden's report to the legislature, see John J. Crittenden Papers (Division of Manuscripts, Library of Congress). It may also be found in Mrs. Chapman Coleman, *Life of John J. Crittenden* (Philadelphia, 1871), I, 48–56, and in *Message of the Acting Governor* [of Kentucky].

Rowan, on the other hand, felt no such magnanimity. The line of 36° 30′ was and always had been the true boundary. Neither an error in surveying nor a temporary recognition of another line could change the facts. In his opinion, the claim of Kentucky to the land between Walker's line and 36° 30′ was just as valid as her claim to any portion of Kentucky. If Kentucky desired to give away millions of acres it ought to be to the poor of that state and to the cause of education.[15]

Many other prominent men in Kentucky probably felt as did Rowan, but they were willing to sacrifice something in order to reach a settlement. Henry Clay felt that Tennessee should surrender an amount of land west of the Tennessee equal to the amount lost to Kentucky east of the river. However, in order to settle the question and thus place Kentucky in position to sell her western lands lately acquired from the Indians, he favored yielding something. This was also probably the feeling of a majority of the legislature, which sided with Crittenden and passed a resolution ordering a resumption of negotiations.[16]

In the meantime Grundy and Brown, despairing of a settlement between the commissioners, dispatched a letter to Congress. They called attention to the failure of negotiations and petitioned Congress to authorize the Supreme Court to take cognizance of the question.[17] However, when Kentucky assumed a favorable attitude, the plan to put the question before the Supreme Court was abandoned, and Grundy and Brown proceeded "coolly and dispassionately" to analyze the new situation.

[15] *Message of the Acting Governor* [of Kentucky]; Nashville *Whig*, March 22, 1820.

[16] Clay to Crittenden January 29, 1820, in Crittenden Papers; Kentucky *Senate Journal*, 1820, p. 210.

[17] Copy in Crittenden Papers, under date of January 24, 1820.

Rowan, being out of harmony with the desire of the legislature, resigned and his place was taken by Robert Trimble. Negotiations were then reopened. The Tennessee commissioners had a distinct advantage. They had made demands and Kentucky gave signs of accepting the greater portion of them. It would have been an easy matter, however, to ruin the chances of settlement by holding rigidly to all those demands. Grundy and Brown realized this and made up their minds to give in on points involving claims, but to refuse to accept any boundary short of the Walker and Alexander-Munsell lines. They also refused to give compensation in either land or money in order to get those lines accepted.

In that section west of the Tennessee River neither of the states had taken possession of the territory. That being the case, of course neither state had marked any county lines or exercised jurisdiction to any certain line. In fact, neither state had ever passed an act recognizing any boundary west of the Tennessee. Grundy and Brown believed the line 36° 30′ was originally the line and, therefore, if they continued to insist on all their points and the case came before the courts, the North Carolina claims north of 36° 30′ would be declared void. As to the Virginia claims, there were probably only a few in existence anyway and the agreement should not be held up on account of those.[18]

With both sides now willing to make concessions, an agreement was quickly reached. The boundary was set at the Walker line as far as the Tennessee River. That line was to be re-marked and the two states were to bear the expense equally. From the Tennessee, the line was to run up that river to the Alexander-Munsell line, and thence westward along that line to a point below New

[18] Report of Grundy and Brown, in Nashville *Whig*, May 31, 1820.

Madrid, Missouri. All North Carolina claims west of the Tennessee and north of the Alexander-Munsell line were to be void, as were the Virginia claims south of that line. The islands in the river between those two lines were to be under the jurisdiction of Kentucky but North Carolina grants were to be recognized. All Kentucky claims between the Tennessee and the Cumberland and south of the Walker line were to be void.[19] East of the Cumberland and between the Walker line and 36° 30′, grants that had been made by North Carolina, Virginia, Kentucky, and Tennessee were placed upon an equal footing with preference given to priority of title. The vacant lands, however, were to be disposed of by Kentucky.[20] The Kentucky legislature immediately ratified the agreement, but the Tennessee legislature was not in session.

The people of Tennessee in the disputed area hailed the settlement with great joy and pronounced it the beginning of the "happy era of their unquestioned citizenship." [21] In other parts of the state, however, it was regarded with much misgiving and even open hostility. The *Clarion* had been eager to see the controversy settled, but it thought the arrangement that had been made relative to private claims was "very objectionable." It felt that Kentucky gained everything and Tennessee nothing, but the arrangement was made and it was "folly to cry after spilt milk." [22] The Nashville *Gazette* had it on good authority that the Walker line had been run on to the

[19] This part of the line had not been marked by Thomas Walker and Daniel Smith, and later, in granting lands in this section, there had been a great amount of uncertainty.

[20] Nashville *Whig*, February 22, 1820; Crittenden Papers, under date of January, 1820; Kentucky *Public Acts*, 1819, pp. 922–27.

[21] Clarksville (Tennessee) *Gazette*, quoted in the Nashville *Whig*, March 1, 1820.

[22] Nashville *Clarion and Tennessee State Gazette*, February 15, 1820.

Mississippi. But even if Walker's work west of the Tennessee was merely experimental, as suggested by Grundy, that did not excuse Grundy and Brown for agreeing to the Alexander-Munsell line and voiding all North Carolina claims north of it. It regretted that the legislature had not reserved the right to reject the agreement.[23] To those protests were added the clamors from land speculators. A prominent state official thought that Grundy and Brown had rendered themselves "politically defunct." [24]

Grundy, in an attempt to justify the acceptance of the Alexander-Munsell line without a new survey, wrote Crittenden and George Bibb for assistance. He requested them to get up a letter establishing the ability and character of Alexander, Munsell, and their assistants. He desired that the letter then be signed by several prominent men and forwarded to Tennessee.[25] The legislature, however, soon met in special session and approved the settlement,[26] and the clamor against the adjustment was drowned by the cry for relief from the pecuniary embarrassment that had been produced by the panic of 1819.

[23] Nashville *Gazette,* February 12, 1820.

[24] Daniel Graham, Secretary of State, to Governor Joseph McMinn, February 16, 1820 (Tennessee Historical Society Collections, Box G2, No. 61).

[25] Grundy to George Bibb and Crittenden, February 21, 1820, in Crittenden Papers.

[26] Tennessee *House Journal,* 1820, p. 44.

Chapter VIII

A MASTER OF POLITICAL STRATEGY

THE steps taken by the legislature of 1819 did not bring relief and the year 1820 brought increasing distress. Products of the soil experienced such a decline in price that "after the trouble and expense of transporting them to market; there . . . [was] little left to reward the labour of the agriculturist." [1] Pressure of the times forced the Talbot Hotel of Nashville to reduce its weekly rates on board to $3.00. Newspapers were filled with notices of sheriff and trustee sales. One issue of the *Gazette* carried notice of sheriff sales of ten pieces of property in Lincoln County alone.[2]

Legislative recognition of the plight of the debtor class encouraged a demand for further relief. As early as February, 1820, several counties began circulating petitions requesting Governor McMinn to convene the legislature in special session for the purpose of providing some relief for the "embarrassment of the people." Davidson County citizens were alarmed over the "diminution of the circulating medium" of the country. They expressed the belief that if the legislature did not intercede and take steps to check rapid decline in prices of the products of the soil and protect the people against the "evils of a deficient, decreasing and defective currency," the coun-

[1] Nashville *Gazette*, April 26, 1820. [2] *Ibid.*, June 7, 14, 1820.

try was threatened with complete destruction.[3] From Williamson County came a petition signed by more than five hundred persons, praying that the Governor convene the legislature "for the purpose of taking into consideration the distressing situation of the Commonwealth, and of devising, in their wisdom, some available expedient for relief of the great body of the people." [4]

The Nashville press joined the cry. The *Clarion* lamented the fact that property was being sacrificed "at less than half its real value," and "the future usefulness of many hundreds of the citizens" was threatened with destruction. Relief, it stressed, could not be obtained by halfway measures. The people were universally praying for "suspension of proceedings for one or two years." [5]

The demand became more forceful with time. Violent attacks were made on the "monied aristocracy" which had so long dominated Nashville. The banks, it was charged, feared for the legislature to meet. They had "come so heavy upon their debtors, by calls, protests and suits that they tremble[d] for the result." But why should the legislature have pity on them when they had had no mercy on others? They were the "horse-leeches of the country" who had "drained every drop of blood they could suck from a suffering community." [6] Another month brought rejoicing on the part of the friends of relief. Several men of wealth had taken up the fight and were urging the call of an extra session. The *Clarion* assured those men that they would receive "rich reward in the affection of their fellow citizens and the self consolation of feeling for the misery of others." [7]

[3] *Ibid.*, May 10, 1820. [4] *Ibid.*, April 26, 1820.

[5] Nashville *Clarion and Tennessee State Gazette*, February 29, March 21, 1820.

[6] *Ibid.*, April 18, 1820. [7] *Ibid.*, May 2, 1820.

From East Tennessee, however, there came a mighty protest against a special session. It was declared that the people did not wish it, and charged that the huge number of petitions spoken of in the Nashville papers had come from not more than three counties and were accompanied by "but half a dozen signatures." The honest, industrious, and prudent people needed no relief and desired no special session. The demand was coming from those who had "made large purchases without capital" and lived in luxury beyond that which they could afford. And "now, that they have run their race, they wish the Legislature to pass a law that they may keep their honest creditor from recovering his debts." [8]

But the Murfreesboro *Courier* denied that the conditions of the times were due to the imprudence of debtors, and placed the blame upon the "fall of foreign markets, and the domestic scarcity of a circulating medium." Those who owned property were not a great deal better off since property sold to satisfy debts brought only about one fifth of its real value. It could not bring more since there were none who had the money to purchase it. "If ever there was an occasion, when necessity called for legislative interference, to save a whole people from bankruptcy and ruin, the present is surely the time." [9] The Nashville *Whig* pointed out that when an industrious people in a land of superfluous production could neither pay their debts nor raise the tax money to support their government but found themselves "spell-bound . . . to the thresholds of the jails," it was time for legislative action. It believed that powerful legislative action alone could restore a deranged circulating medium, and called

[8] Knoxville *Register*, June 20, 1820.

[9] Murfreesboro *Courier*, quoted in Nashville *Whig*, May 24, 1820.

upon that body to "put to flight this *incubus*" which was striking at the vitals of the country.[10]

The *East Tennessee Patriot* rejoined that a stay law as proposed by the Middle Tennesseans might give temporary relief to some, but it would be "fraught with much evil" by "increasing bankruptcies, impairing contracts, and finally spreading desolation and ruin over the state." It would admit that times were hard even in East Tennessee. There was much surplus produce and no certain market. What was needed was not stay laws but an appropriation for the clearing of rivers so that surplus produce could be moved to waiting markets at all times of the year. It expressed a hope that the East Tennessee legislators would devote themselves to the interests of their constituents and oppose a stay law but urge the passage of a bill appropriating money to clear the Holston and Nolichucky rivers.[11]

In the midst of the excitement, Grundy, who had resigned his seat to accept a place on the boundary commission, stood for re-election to the legislature. As one of the "several men of wealth" who chose to cast his lot with the advocates of relief, he had become their leader in the recent session and was now willing to go even farther in that direction. The cry which was going up in Middle Tennessee convinced him that the majority was definitely favorable to relief. Accordingly, he made it the main plank in his platform and suggested the propriety of a system of paper money or a loan office as the best means for relieving the distress of the country.[12]

[10] Nashville *Whig*, June 14, 1820.

[11] Jonesboro *East Tennessee Patriot*, quoted in Nashville *Gazette*, June 17, 1820.

[12] Nashville *Clarion and Tennessee State Gazette*, June 20, 1820.

The *Clarion* became Grundy's strong supporter, charging that his only opposition was coming from the land speculators who were dissatisfied with the boundary settlement and from the "monied aristocracy" of Nashville. Such opposition, however, would be only "chaff before the wind" for the people knew whom they wanted, and that person was Grundy.[13]

The *Gazette* retorted that Grundy would find himself opposed by many whose opposition was "founded upon principle; and on whom the genius, and eloquence of Mr. G. has been exercised in vain." He would find in the ranks of the opposition men who were "anxious that the distress . . . should be alleviated . . . men who have *money*—and men who have none." It would include all who understood that the Constitution of the United States forbade states to coin money or emit bills of credit. They would vote for some candidate "of inferior capacity" rather than support a man of Grundy's principles. Grundy, however, was victorious over his opponent, Colonel Thomas Williamson, by a majority of 239 votes,[14] and continued to serve in the legislature until the close of the session of 1823.

Grundy and the Governor "effected a combination," [15] and the legislature was called to meet in Murfreesboro on June 26. As the news spread, the hopes of the debtor class ran high; it was plain, however, that the debtor must rest all his hopes upon Middle Tennessee and expect little from the eastern section of the state.

In his message to the legislature Governor McMinn recommended an increase in the circulating medium.

[13] *Ibid.*, May 23, 1820.

[14] Nashville *Gazette*, June 14, 1820; Nashville *Clarion and Tennessee State Gazette*, June 20, 1820.

[15] St. George L. Sioussat, "Some Phases of Tennessee Politics in the Jackson Period," in *American Historical Review*, XIV (1908), 60.

That could be done, he thought, by issuing treasury certificates to be circulated "upon the faith of a public responsibility, and resting for their final redemption, on the sale of lands within the Hiwassee district, as well as upon ordinary revenue of the State." He advocated a loan office as the agency through which those notes could best be put into circulation. Such an office should be located at the seat of the government and be under exclusive control of the legislature. Branches, sufficient in number to accommodate the people, could be established in the various counties. An issue of about $300,000, he thought, would be sufficient to relieve the distress.[16]

The plan offered by the Governor was a development of that spoken of by Grundy in his campaign. Grundy immediately moved that a joint select committee be appointed to take under consideration that portion of the Governor's message relating to the "embarrassed condition, and pecuniary distresses of the citizens." [17] He was made a member of the committee, and a few days later reported a bill to establish a loan office with branches at Nashville and Knoxville. The former office was to have a capital of $487,500 and the latter $262,500, and they were to establish at least five and three branches, respectively. The loan office was to be authorized to issue notes which were to be backed by Cherokee lands and public faith. Loans not to exceed $1,000 were to be made to individuals on real estate and personal security at 6 per cent interest. The loan office notes were to be receivable in payment of all debts due the state.[18]

Grundy spoke at length in behalf of his bill. Notes to the amount of $750,000, he believed, would be sufficient, but should it prove otherwise, a later legislature

[16] Tennessee *House Journal*, 1820, pp. 13–14.
[17] *Ibid.*, 19. [18] *Ibid.*, 50; Nashville *Whig*, July 12, 1820.

could increase the amount. The proposed method of issuing paper, it was hoped, would prevent large sums of it from getting into the hands of eastern creditors. The provision placing the maximum amount of any note at $100 would not only increase the number of notes but also the amount of money in circulation.

To wait until the proceeds of the land sales should be sufficient to permit the lowering of taxes would be too slow a process of relief. Under the proposed plan the state would, in effect, be using the proceeds before they were received. Such a plan, Grundy believed, would not only aid the poor but also the wealthy, and he had received complaints from the wealthy as well as the poor. "They are all victims alike to the peculiar situation of the times, and humbly ask for legislative interposition."

To the criticism that the loan office notes would not be accepted in New York and Philadelphia and thus would ruin Tennessee merchants, Grundy replied that it was intended that those notes should stay at home. He felt that the surplus products of the farmer should be the "medium of Traffic" rather than gold or silver. Besides, he was unable to see that the transporters of gold and silver had any claim upon the legislature. The natural channel of Tennessee trade was by way of the Mississippi River to New Orleans rather than to New York and Philadelphia.[19]

The bill passed the House twenty-six to thirteen. William Martin of Williamson and William Williams of Davidson were the only representatives from the panic-stricken central basin of Middle Tennessee who voted in the negative, and it cost the latter his seat in the legis-

[19] *Ibid.*

lature.[20] Eight of the thirteen, under the leadership of Miller of Knox County, signed a lengthy protest against its passage and presented it to the House. The opposition based its plea upon three points. First, such a plan was unconstitutional since states were forbidden to emit bills of credit. Second, those bills were indirectly made legal tender, which was prohibited by the Constitution. Third, the bill, in effect, was calculated to take one man's property to pay another's debts.[21] The Senate refused to accept the bill in the form in which it was passed by the House, and requested a joint select committee to iron out the differences. The House concurred and Grundy was named a member of the committee.

In the meantime, certain citizens of the state had become very much aroused. Andrew Jackson had paid a visit to Murfreesboro, lost his temper, and emphatically declared that every legislator who voted for the bill would be guilty of perjury. His rage was further increased by the reception of a veiled threat that if he did not keep quiet his friends would be defeated in the next election. Jackson returned to the Hermitage and wrote to his friend and adviser, William B. Lewis, declaring that he had never seen "as wicked & pernicious a thing attempted by a set of honest Legislators acting under the san[c]tity of an oath, and such a palbable [*sic*] infringement of both federal and state constitutions." He had heard that meetings were being planned in Sumner, Wilson, and Davidson counties for the purpose of remonstrating against the passage of the bill, and he be-

[20] Nashville *Clarion and Tennessee State Gazette*, July 25, 1821; Nashville *Whig*, August 8, 1821.

[21] Tennessee *House Journal*, 1820, pp. 99–106; Knoxville *Register*, July 25, 1820; Nashville *Whig*, July 17, 1820.

lieved the people would be unanimous in their remonstrance.

Major Lewis, however, was in Nashville, and coming in daily contact with the people, had not observed the unanimity hoped for by Jackson. He thought the loan office bill "a dangerous experiment" but could see "no essential difference between that office and the banks." If the latter were constitutional, he could see no reason why the former would not be. He believed a considerable majority of the people in his vicinity favored the proposed loan office, and did not think there was a possible chance "to arrest the progress of the Bill." In his reply to Jackson, he took the General to task for losing his temper at Murfreesboro and reminded him that members of a legislature did "not like to be told that by voting for certain measures they have been guilty of perjury." [22]

Jackson attended the meeting held in Davidson County on the fifteenth and on the following day forwarded to Lewis the remonstrance which had been "agreed to by every man who was present." The number of names was small, however, and Jackson wanted Lewis to secure other signatures and then rush the document on to Murfreesboro. Jackson had renewed hope. He had just heard that William L. Brown had secured an amendment to the bill in the Senate. If that were true, he believed the Senate was still undecided and that a few strong remonstrances would stop the progress of the bill.[23]

[22] Tennessee *Senate Journal,* 1820, pp. 87–89; Nashville *Whig,* July 26, 1820; William B. Lewis to Jackson, July 15, 1820; Jackson to Lewis, July 15, 16, 1820, in New York Public Library *Bulletin,* IV (1900), 162, 188–91.

[23] Jackson to Lewis, July 16, 1820, in New York Public Library *Bul-*

The remonstrance was forwarded to Murfreesboro and presented. The document protested against the passage of the loan office bill on the grounds that it was unconstitutional, inexpedient, and impolitic in its provisions. When it was presented to the House, Grundy moved that it be received. He believed the people were within their rights in taking such a step, and he did not believe it was obligatory upon the House to determine in what manner their rights should be exercised or in what language their sentiments should be expressed.[24]

In the Senate, however, the remonstrance met with a storm of opposition. Jackson was certainly in error when he thought a protest from him would make up the mind of that body in opposition to the bill. The Senate voted to lay the remonstration on the table and two senators who voted in favor of that action, David Wallace and Adam Huntsman, placed before the Senate a statement as to why they voted thus. They declared that the statement recently made by Jackson, together with the memorial, constituted an "unwarrantable attack upon the dignity of the Senate." They further stated "that the insinuations of perjury cast in said memorial is neither reason nor argument to convince any rational mind of any principle whatever." They denounced the memorial as "*dictatorial, indecorous and intemperate.*"[25] Jackson knew how to fight Indians but he used the wrong tactics in his fight on the loan office bill.

When the bill emerged from the conference committee, it had undergone several changes, and the title now

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letin, IV, 189-91. Jackson probably dictated the remonstrance since he assured Lewis that the document contained his opinion.

[24] Nashville *Whig*, July 26, 1820.

[25] Tennessee *Senate Journal*, 1820, pp. 87–89.

read, "A bill to establish a Bank of the State of Tennessee." Grundy had been largely responsible for the revision. The Senate immediately accepted the revised bill, but the House hesitated. Grundy struggled desperately to force acceptance. He was of the opinion that the original bill was constitutional, for he believed a state had the power to emit notes in accordance with the provisions of the bill. The question, however, was not one of constitutionality but one of determining which was the better plan. He favored the revision because he understood that it had been used with great success in South Carolina. As for himself, he wished "to profit by experience . . . the wisest teacher of man, and his best admonisher." [26]

As finally passed, the act created a bank at Nashville and a branch at Knoxville with three fifths and two fifths of the capital, respectively. The capital stock was to be $1,000,000 and the bank was to issue notes in denominations of $1.00 to $100.00 in sums deemed "most expedient and safe." Those notes were to be backed by the proceeds from the sale of unappropriated lands and the interest on the money due from persons residing south of the French Broad and Holston rivers. In addition, all ordinary revenues of the state not otherwise appropriated were pledged; the public faith, however, was not pledged.

All public monies were to be deposited in the bank, and loans, not to exceed one half of the "unincumbered value of the property," were to be made on mortgages. Loans could also be made on personal security but were renewable every three months, and each loan was limited to $500. The obligations of the bank were to be

[26] *Ibid.*, 97; Tennessee *House Journal*, 1820, pp. 148–49; Nashville *Whig*, July 26, 1820.

kept within $1,000,000, and all notes were made acceptable in payment of principal or interest due to the state from the purchase of lands and for taxes. To insure the new bank against the hostility of the other banks, it was provided that unless a plaintiff was willing to accept its notes in payment of a debt, no execution on judgment should be made until after the lapse of two years. The act was to go into effect not later than October 15, 1820.[27]

Shortly before the adjournment of the legislature a letter arrived at Murfreesboro addressed to "The hon. Robt. Weakly, or the hon. James Fentress, or his excellency Joseph McMinn, . . . or in their absence, Felix Grundy." The envelope contained a twenty-shilling bill on the Bank of the James River, dated September 1, 1776. Upon inquiring whence the letter came, Grundy was informed that it was postmarked at Dandridge in Jefferson County. He immediately moved that the twenty-shilling bill be delivered to the member from Jefferson. Henry Bradford replied that his people stood in no need of relief and that he preferred that the gentleman from Davidson take the bill and "apply it to the relief of his people." After a general laugh it was laid on the table without order.[28]

The bank began its business under very unfavorable circumstances. Its enemies were violent in their attack upon it. A writer in the *Clarion* admitted that Grundy was a man of ability and did not question his motives, but was unable to see how his great legal knowledge could have permitted him to sponsor a measure that was unconstitutional. Did not the Constitution prohibit states from emitting bills of credit? Were those new bills

[27] Tennessee *Public Acts*, 1820, p. 9.

[28] *Niles' Weekly Register* (Baltimore), XIX (1820), 48.

anything short of bills of credit? Yes, the people needed relief but they desired constitutional relief. He hoped that during the next session Grundy would still be the leader of relief but that he would have realized the error of his plan and take the lead in a new "*remedy* constitutional in its nature, and effectual in its object." [29]

The friends of the bank denied that the law made the bills legal tender. A man could take them or reject them just as he liked. If he refused to accept them there was no intention of trying to force him. His action would merely bar him from collecting his debt for two years, at the end of which time he would get his legal tender. Did not the legislature have power to pass laws regulating the procedure in collecting debts? [30]

The new bank never enjoyed a great amount of popularity. Money borrowed at 6 per cent could not be profitably used when agricultural products would yield the borrower not more than 5 per cent on his investment. Too, it had entered business during a period of general suspension of specie payment. All banks in Tennessee except the State Bank at Knoxville had suspended such payment in 1819.[31] Their notes were passing at a great discount and the notes of the new bank joined them. The bank also lost a friend when Governor McMinn, who in combination with Grundy had sponsored its creation, retired from office in 1821. Neither of the two candidates for governor in that year approved of the bank, yet neither advocated its destruction. Edward Ward had a financial plan of his own, but William Carroll advocated a return to specie payment. During that same year also the Supreme Court of Tennessee declared

[29] Nashville *Clarion and Tennessee Gazette*, October 31, 1820.
[30] *Ibid.*, July 25, 1820.
[31] Abernethy, *From Frontier to Plantation in Tennessee*, 233.

the "stay" provision of the bank law unconstitutional.[32]

When the legislature of 1821 convened, Grundy was made chairman of the committee to receive that portion of Governor McMinn's message relating to "pecuniary embarrassment." The retiring Governor still had the interests of the debtor class at heart. He was of the opinion that the deplorable condition of the debtor class would be "greatly ameliorated" and the interest of the creditor class promoted if a law were passed providing that property of debtors could be received by creditors "at some estimated proportion of its real worth." If the creditor desired, however, he could delay collection on security that he should receive the amount at the close of a set period. Such a measure, he stated, was usually known as a property law.[33]

Grundy was unwilling to go as far as the Governor desired. He might have been to some degree influenced by the fact that Governor-elect Carroll would soon take office and was certain to use his power to defeat such a measure. At any rate, as chairman of his committee, he delivered a report to the House in which he refused to sanction a property law. He believed the depression had been caused by a few becoming heavily indebted to foreign concerns and then bringing great pressure to bear upon the persons who owed them. Three fifths of those foreign debts, he calculated, had already been paid. He, of course, realized the debtor class was still suffering, but he was not able to sanction a remedy that would disregard the rights of the creditor class. Therefore, the committee was of the opinion that the property law recommended by the Governor would not be the proper remedy.

[32] Knoxville *Register,* June 5, 1821; 1 Peck (Tenn.), 1 (1824).

[33] Tennessee *House Journal,* 1821, pp. 16 ff.

To require a creditor to receive payment in property, unless he chose to do so, would not only result in great inconvenience, but would not be in keeping with the original contract. The price on property might be set at so high a figure as to prevent the creditor from obtaining a fair settlement. Too, some property could not be conveniently separated into small pieces, and a creditor might thus be required to take over a large piece of property in order to get settlement on a small debt. Such a policy the committee felt would be a "denial of right and justice." It believed that the only fair policy was one that took into consideration both parties to a contract and also the expectation of each at the time the contract was made.

Grundy insisted, however, that the committee did not believe that a creditor in times of depression should be permitted to demand specie in prompt discharge of a debt. That, it was thought, would be a "species of injustice, of a nature most alarming, and ruinous in its consequences." Although the committee did not recommend the passage of the measure proposed by the Governor, it ignored the recent decision of the Supreme Court and maintained that the legislature possessed the power to prescribe the "mode in which the payment of debts shall be enforced, and the execution of judgments regulated." [84]

The new Governor took the oath of office soon after Grundy had made his report on McMinn's relief proposals. In his message to the legislature Governor Carroll also dwelt upon the topic of relief, but his recommendations were quite different from those made by his predecessor. He considered the problem of relief from "pecuniary embarrassment" one that must be solved by

[84] *Ibid.*, 49–53.

the individual. This could be done by the "cultivation of industrious habits and the practice of rigid economy." If individuals would show a determination *"to promote agriculture and domestic or household manufactures, and to lessen the consumption of foreign goods,"* the pressure on the community would soon be relieved. Instead of further inflation of the currency, he recommended that a date be set for the resumption of specie payment by the banks.[85]

If Grundy was not inclined to follow the late Governor to the extreme in relief for debtors, neither was he inclined to follow the new Executive to the other extreme and contract the currency by forcing specie payment upon the banks. Such an act would necessitate the calling in of loans on the part of the banks and thus, instead of relieving the distress, add to it. When a bill to that effect made its appearance, he immediately began to fight to defeat it. If it could not be defeated, he desired to modify it so as to remove its more objectionable features. By looking at the bill as finally passed, one can better observe the points for which Grundy was fighting.

That act made it a misdemeanor punishable by fine and imprisonment for a bank to dispose of gold or silver in any way other than for redemption of its notes until the same should all be redeemed. All banks chartered by the state were to resume specie payment by the first Monday in April, 1824. Failure to resume would result in a forfeiture of the charter. Beginning on January 1, 1822, all banks chartered by the state and receiving each other's notes in ordinary course of business must begin making quarterly settlements with each other. The said notes were to be exchanged one for the other and failure

[85] *Ibid.*, 108 ff.

to abide by that provision would also result in forfeiture of the charter.[36]

There was nothing in the original bill to exclude Grundy's Bank of the State of Tennessee. Therefore it would have been forced to redeem its notes in specie. Grundy realized this and knew that it would be impossible for the bank to resume. The sale of lands in the Hiwassee District had been disappointing and the redemption of the bank's notes depended upon the funds from that source. In order to save the bank, Grundy proposed that it be excepted, but his motion was defeated.[37] The best he could do was to secure a postponement of the beginning date of resumption from November 1, 1823, to the first Monday in April, 1824.

East Tennessee, supported by the very popular Governor, had won a victory over the easy money group and was jubilant. Miller wrote a letter to his Knox County constituents rejoicing that the notions about "paper banks" had been put down. The "follies of 1820" had been abandoned and the world would now see evidence of Tennessee's recovery; "if we do not get entirely well, we have sworn against taking any more physic and have dismissed the doctors." [38] The opponents of specie payment, however, did not quit the fight. They continued to agitate the question and created a great amount of apprehension concerning the distress that would follow resumption. Much sentiment began to be expressed in favor of further postponement. In his message to the legislature in 1823, Governor Carroll took recognition of the apprehension but expressed the belief that it was impossible to legislate debtors out of their "pecuniary

[36] Tennessee *Public Acts*, 1821, pp. 51–52.
[37] Tennessee *House Journal*, 1821, pp. 286–94, 323–24.
[38] Knoxville *Register*, November 27, 1821.

embarrassments." The only remedy he could see was individual industry and economy. He even suggested a change in the law which would insure a speedier collection of debts contracted in the future. Such, he believed, would tend to prevent the ruinous credit system of which the state was then a victim.[39]

In spite of the recommendation of the Governor, a bill was introduced to amend the specie payment act of 1821 so as to give some relief. James K. Polk of Maury County moved to table the bill immediately, but Grundy asked that it be read the first time and sent to the Senate. The House could then examine the bill when it returned. Polk replied that he knew the bill was the "favorite child of the gentleman from Davidson, that he had fostered and nourished it, and hoped ere long to raise it to manhood." As for himself, he wished to see it stopped right at the beginning. Public confidence in the banks was already badly shaken and it had been largely brought about by the suspension of specie payment. If depreciated paper was further tolerated he feared a complete destruction of confidence and an unheard of depreciation in circulating paper.[40]

The bill went to the table and was taken up a few days later. Polk proposed to strike out the whole bill and substitute one that would enable the holder of a note on either the Nashville or the State Bank at Knoxville to sue for specie and secure execution of judgment. Grundy opposed the amendment and addressed the House at some length. He charged that the specie payment act of 1821 had been passed under a wrong impression which had been created by a few individuals. If the state attempted to carry out the provisions of that

[39] Tennessee *House Journal*, 1823, pp. 9–13.
[40] Knoxville *Register*, November 14, 1823.

act, a legal contest would follow, since states had no authority to impair a charter. The banks knew that, and if they had sound sense they would certainly take advantage of it. The state would be the ultimate loser in the controversy. But even if the state did have authority to enforce such a law, it would be a bad policy to use it. If specie should be paid out it would be immediately sent out of the state.[41]

In the meantime, the Committee on Banks reported to the House. The banks, it declared, were solvent and in order to comply with the act of 1821 the State Bank at Knoxville would be forced to call in only about 16 per cent of the debts due it, and the Nashville Bank about 29 per cent. The calling in of debts due the banks was what the Grundy group did not want, but East Tennessee was eager for specie payment. The Knoxville *Register* declared the banks were in position to pay and should be made to pay. No need existed for further delay, and if delay were granted it would "evince a want of legislative wisdom." [42]

As finally passed, the new act was a victory for Grundy. Specie payment was not avoided but it was spread out over a long period of time. It was hoped that this feature would give the country time to adjust itself. The new act suspended that section of the act of 1821 which set the first Monday in April, 1824, as the deadline for the resumption of specie payment, and provided for a gradual redemption which would not be completed until July, 1826.[43] In case a bank failed to redeem as

[41] *Ibid.*, November 7, 14, 1823.

[42] Complete report published in *ibid.*

[43] Tennessee *Public Acts*, 1823, pp. 69–72. On each note presented between the first Monday in April, 1824, and the first Monday in January, 1825, one fourth was to be paid in specie; on each note presented between January and October, 1825, one third was to be paid in specie

directed, the old clause in the act of 1821 would be immediately revived against that bank.

Both the endorsement law of 1819 and the "stay" provision of the bank law of 1820 were declared unconstitutional by the Supreme Court of Tennessee in 1821. The Court took the position that those acts violated both the state and Federal constitutions in that they impaired contracts, violated the legal tender provision, and were repugnant to that clause which declared that justice and right should prevail, without delay, in all cases.[44]

During the special session of 1822 an effort was made to get the legislature to repeal the endorsement law of 1819. Grundy bitterly opposed such a step. The judiciary, he declared, possessed no power to declare an act of the legislature unconstitutional. Certainly an execution was a "creature of legislation" and it was completely within the power of the legislature to extend or restrict it.[45]

Apparently the right of judicial review was not admitted by the members of the House for they responded by voting unanimously against repeal of the law which the Court had declared to be unconstitutional. This unanimous vote increased the enthusiasm of the friends of easy money and by the following year it was decided not only to hold what had been gained but to take the offensive. They wished to see the act of 1819 amended so as to require the plaintiff to endorse on every warrant or writ that *current* bank notes would be accepted in payment of the debt. Should the plaintiff fail to en-

if no payment had been made on it during the first period; between October, 1825, and July, 1826, one half was to be paid if no previous payment had been made; after July, 1826, full payment was to be made.

[44] Knoxville *Register,* June 5, 1821; 1 Peck (Tenn.), 1.

[45] Nashville *Constitutional Advocate,* August 13, 1822.

dorse, execution would be stayed for two years.[46] According to the act of 1819 the notes of the State Bank at Knoxville and the Nashville Bank and such other notes as passed at par with them must be accepted. If this new bill should become a law, the notes of *all* banks would be placed at par, forcing upon the creditor the acceptance of depreciated paper.

The opposition press hastened to the attack, branding the bill as "unreasonable" and "impolitic." Two years, it averred, was longer than an honest man could ask for delay. "Will the legislature alone consider the difficulties of the debtor class of society? Has the creditor no rights? . . . Will our assembly protect these mendicant gentlemen in the possession of other men's property?" It was charged that the steps being taken by Grundy and his friends were nothing short of cowardly. They were, by the re-enactment of the unconstitutional endorsement law, denouncing the judges of the Court and stabbing the constitution. If Justices John Haywood and Thomas Emmerson had combined to check the legislature in its exercise of constitutional power, exclaimed the *Register,* why not impeach them. Grundy knew better than that. He did not want to feel the weight of arguments which those gentlemen would bring forward. "Are the people of Tennessee to be gulled by the law *dictums* of such men as *Felix Grundy* and his assistants!" [47] When the Murfreesboro *Courier* spoke in defense of the endorsement laws, the *Register* replied that the ablest man favoring such laws was Grundy and that he was "much fitter to make a rhetorical figure than moot a law point." [48]

Grundy was determined that a decision of the Court

[46] Knoxville *Register,* August 6, October 17, 1823.
[47] *Ibid.,* October 17, 31, 1823. [48] *Ibid.,* November 14, 1823.

should not block one of his favorite laws. While speaking in favor of amending the endorsement law of 1819, he must have risen to the height of his eloquence if not his height of reasoning. A newspaper correspondent stated that during his speech "wretchedness, famine, pestilence and ruin, were marshalled in direful array in support of the measure. The imagination was feasted while the judgment was not convinced." [49]

As passed, the amendment did not relieve the requirement of endorsements, but provided another plan in the place of the two-year "stay." In case an execution had not been endorsed, as required by the act of 1819, and was put into the hands of a sheriff, he should select three disinterested parties to value the property levied upon. The property was then to be offered for sale but not to be sold unless it brought three fourths of its valuation. The new act, however, was not to apply to contracts entered into after April 1, 1824.[50]

In the meantime, the problem of overlapping land claims had become serious. That condition had resulted from a haphazard method of making grants and entries and the failure to register or preserve deeds. Many warrants had been bought up by speculators and no small number of locations were made on lands already claimed by other parties. It was to avoid litigations over conflicting claims that Grundy had sponsored an act in 1819 that gave protection to occupants who had held undisputed possession for a period of seven years, provided the claim of the occupants was based upon a grant from either North Carolina or Tennessee.[51] Many occupants were friends of Grundy and stood well in their com-

[49] *Ibid.*, October 31, 1823.
[50] Tennessee *Public Acts*, 1823, pp. 12–15.
[51] See Chap. VI.

munity, and it was but a natural step that he should seek to protect them.

The act of 1819 did not, however, protect those who were already in possession since it was not retroactive. Those occupants were forced to depend upon an earlier law which was in existence in North Carolina and Tennessee. By that law an occupant was protected in his possession provided he was able to show a legal claim to his land. But what was a legal claim? It all depended upon the interpretation by the Court. Earlier judges had ruled that a legal claim did not necessarily have to be one that could be traced back to the original grant. The present Court, however, by a vote of two to one, had placed a new construction upon the old law. Justices Emmerson and Robert Whyte ruled that a legal claim was one connected, without break, with the original grant. Justice Haywood dissented and pronounced in favor of the old interpretation.[52]

The condition was serious. Certain persons were making a business of purchasing disputed claims and then beginning proceedings to evict those in possession of the lands. Since the outcome was in question, the fees of lawyers in such cases were often dependent upon the amount of land recovered. To prevent such combinations between speculator and lawyer, Grundy cooperated with Miller and pushed through the legislature a bill to prohibit champerty. The act provided that after the date of passage no person should either buy or sell any pretended right or title to lands unless the person doing the selling had been in actual possession for at least one year prior to the sale. Further, it was made unlawful for a plaintiff to enter into any agreement with a lawyer, the terms of which would depend upon the

[52] Abernethy, *From Frontier to Plantation in Tennessee*, 264.

success of the suit. Should any lawyer enter into such an agreement, he was to be stricken from the list of attorneys and disqualified for five years from practice within the state. The act, however, was not to affect agreements already in existence.[53]

That act still did not help those persons whose titles were already in danger, and probably half of the existing land titles were in danger if the new interpretation should prevail.[54] The only hope was that the activities of Haywood and his powerful following would be sufficient to cause the legislature to pack the Court; and it was done in 1822. Justice Emmerson resigned and the legislature filled his place and also added a fourth member to the Court.[55] Those two men, William L. Brown and Joseph Peck, held the "correct" views. The former had framed the bill of 1819 which had been sponsored by Grundy.[56] The sole purpose of the addition to the Court was to guarantee a majority which would favor the old interpretation. That was proved when a clause was inserted in the bill providing that the first vacancy which should occur was not to be filled, and the Court should continue to consist of only three judges.

All of this was too much for the land speculators and lawyers who depended upon champerty, and they began a protest. The loudest clamor came from one Patrick Darby, whom a contemporary described as a "man of great natural talents, and not less distinguished for energy than he was for want of principle." [57] Darby had come from Kentucky to Tennessee in 1813 and had begun the practice of law in Montgomery County, but

[53] Tennessee *Public Acts*, 1821, pp. 71–75.
[54] Guild, *Old Times in Tennessee*, 460.
[55] Nashville *Constitutional Advocate*, August 27, 1822.
[56] Guild, *Old Times in Tennessee*, 73. [57] *Ibid.*, 460.

later moved to Nashville. Relying upon the interpretation placed upon the land laws by Emmerson and Whyte, he had made a business of buying up disputed claims and then entering suit to evict those in possession. While residing in Montgomery County this "land pirate" secured possession of a shadowy claim to the site upon which the town of Clarksville was located and sold the town at auction. He was the high bidder and it was knocked down to him for the sum of $14. The sale was to be for cash and since Darby did not have the money, the town was resold to one acting in behalf of the citizens. Darby immediately left town.[58]

At the time the Court was packed, Darby had suits in progress all over Middle Tennessee.[59] As a lawyer, he was also a party to agreements involving champerty. The statute of limitations of 1819 and the champerty law of 1821 completely ruined Darby's business of evicting occupants in the future as well as his professional work as an attorney for division of spoils. Nevertheless, he still had left the numerous suits that he had in progress provided the Court would continue to accept the interpretation placed upon the earlier law by Emmerson and Whyte. But when the judiciary act of 1822 added a fourth judge to the Court, there was no longer any hope for the Emmerson and Whyte interpretation.

Darby could hold his anger no longer. He purchased the *Clarion*, renamed it the *Constitutional Advocate*, and opened up a newspaper war on Grundy and Miller. Grundy had often opposed Darby in court, both when

[58] *History of Tennessee: With Sketches of Montgomery, Robertson, Humphreys, Stewart, Dickson, Cheatham, and Houston Counties* (Nashville, 1887), 811.

[59] Guild, *Old Times in Tennessee*, 460.

the latter was bringing suits for eviction and when he was being prosecuted by the state. This had created much enmity between the two, Grundy attempting to have Darby barred from practice before the courts and Darby threatening to "horsewhip" Grundy.[60] It was charged that Grundy had taken his ill feeling into the legislature and had there conspired with Miller to ruin Darby. In this accusation Darby was wrong. Grundy's motive was to protect the large number of occupants in Middle Tennessee. He was more interested in increasing his personal and political friends than in striking a blow at one whose name was synonymous with questionable transactions. In fact, Grundy's whole public life presented substantial proof that he never harbored a grudge against an opponent.

Darby was supported by Andrew Jackson, not so much in his attack upon Grundy as in his attack upon the occupant laws. In taking this stand it appears that Jackson sided against his friend, John Overton, who was in sympathy with the occupants.[61] But was not Jackson also a land speculator and had he not himself received a certain portion of lands for his legal advice? Darby, however, overestimated the strength of the speculators and offered himself as an opponent of Grundy for a seat in the legislature of 1823. No better testimony of the strength of the occupant group and the political wisdom of Grundy could be asked than the fact that Darby ran last in a field of four candidates.[62]

Soon after the Congressional Reservation was thrown open to warrant holders in 1819, the Trustees of the

[60] Nashville *Constitutional Advocate*, August 20–November 5, 1822.
[61] Abernethy, *From Frontier to Plantation in Tennessee*, 267.
[62] Nashville *Constitutional Advocate*, July 15, August 12, 1823.

University of North Carolina presented extensive claims. At the time North Carolina ceded her western lands to the United States she also passed an act assigning to the University the claims of all soldiers who had died without heirs. When the fertile lands in the Reservation became available, the University sought to increase its holdings. The attention of the North Carolina legislature was called to the fact that since 1789 numerous other Revolutionary soldiers had died without heirs. These claims too were transferred to the University as were many others which had been discovered in the possession of corrupt land office officials.

Many of the University's claims had been passed upon by the Tennessee commissioners for the adjudication of land claims before the Tennessee legislature, on November 16, 1821, passed a resolution staying the issuance of grants until the will of that body could be determined. This resolution was sponsored by Grundy. He contended that North Carolina had no rights to land claims of soldiers who had died subsequent to the Cession Act of 1789. All such claims escheated either to the sovereign state of Tennessee or to the United States.[63]

Having placed a check upon the issuance of grants to the University, Grundy next introduced a bill providing that the warrants should be issued to the deceased soldiers, thus placing upon the Trustees of the University the responsibility of proving their rights before a transfer could be made. He believed that very few escheats by death prior to 1789 could be established, and since he steadfastly refused to admit that North Carolina had any claim to escheats resulting from deaths subsequent to that date, many thousands of acres claimed

[63] Hoyt (ed.), *Papers of Archibald D. Murphey,* in *loc. cit.,* I, 241 n.

by the University would eventually become the property of Tennessee.[64]

When his bill came up for second reading Grundy, for some unknown reason, changed it so as to provide for the appointment of a commission of two which would be given authority to determine the ownership of the warrants in question. The bill passed the House, but the Senate, under the leadership of Aaron V. Brown, an alumnus of the University, rejected it by a vote of eleven to seven.[65]

The friends of the University denounced Grundy as a "demagogue." Did that gentleman expect two men, if appointed, to decide differently from the expressed opinion of the legislature? The "wily statesman" had been driven from his original position by the force of outside pressure. Indeed, the only part of his character which supported "unvarying consistency" was his "race after vulgar popularity." [66]

The workings of a politician's mind are not always discernible. By arousing public sentiment through an open denunciation of the University's claims, Grundy hoped to convince its representatives of the hopelessness of the task before them. At the same time he secretly expressed himself as not being unfavorable toward some form of agreement with the representatives of the University.[67]

The University continued to push its claims, and in 1822, Archibald D. Murphey and J. H. Bryan were sent to Tennessee to place before the legislature a memorial setting forth the claims of that institution. They found

[64] See manuscript bill in Tennessee State Archives.

[65] Daniel Graham to William Polk, November 25, 1821, in William Polk Papers (Division of Manuscripts, Library of Congress).

[66] *Ibid.* [67] *Ibid.*

both the public and the legislature hostile to their claims. But having understood that Grundy might not be adverse to a compromise, the possibility of such a settlement was hinted at in the memorial. From the time that document was presented, Bryan and Murphey watched every move made by Grundy. He was very courteous to them and at his request Murphey was admitted to a seat within the bar of the House. Finally Murphey, believing he detected in Grundy's actions an unwillingness to disregard completely the claims of the University, suggested a confidential conference with him.

The meeting took place in Grundy's hotel room at Murfreesboro. Murphey was immediately and emphatically informed that the University's claim to escheats as a result of deaths subsequent to 1789 was totally without foundation and had no chance of success before the legislature. However, since the institutions of higher learning in both North Carolina and Tennessee were in need of financial assistance, Grundy would consider a compromise that would divide the claims between them. If such a plan were acceptable to Murphey and Bryan, he would endeavor to push it through the legislature.

The bargain was made: Grundy would revive his former plan to have two commissioners appointed for the purpose of investigating the University's claims. Should the claims be accepted, the Trustees would then transfer warrants for four thousand acres to Cumberland College and twenty thousand acres to East Tennessee College. Lands retained by the University were to be exempt from taxation until January 1, 1850.

Grundy suggested the names of Jenkins Whiteside

and James Trimble as suitable persons to carry out the proposed plan. He went in person to see Whiteside and was assured of his co-operation. Since Trimble was Grundy's law partner there was no question about his attitude. Because the appointments would be made by the Governor, however, it was necessary to take him in on the secret. Grundy had a conference with Governor Carroll and found him amenable. The preparation was complete and in order to prevent a possible slip every one was pledged to secrecy *forever.*

Whiteside and Murphey drafted the bill which was to be placed before the legislature, and Grundy copied it and placed the copy in his pocket. He appeared before the committee which had the memorial under consideration, and, as was expected by the members, began a tirade in opposition to the claims. They were utterly without foundation, he declared, and could not possibly stand the test of legal investigation. In justice to all, such an investigation should be made. Grundy then drew from his pocket the bill providing for the appointment of the two commissioners, and requested the committee to take it under consideration. He further suggested that since the lawyer members of the legislature were very busy, two well-trained lawyers from outside that body should be appointed.

Bryan, Murphey's colleague, feigning ignorance and expressing surprise, requested that the bill be reread, and then after a vigorous protest abandoned his opposition with the statement that the University would welcome an investigation. Midst the astonishment of uninformed friends and the enthusiasm of the opposition the committee recommended and both houses passed the bill authorizing a legal investigation of the University's

claims. Whiteside and Trimble were duly appointed and on August 26, 1822, the two sets of commissioners gave official sanction to the prearranged agreement.[68]

By the close of 1823 Tennessee was already well on the way toward recovery. Under the leadership of Governor Carroll, the people looked forward to a period of prosperity. The relief forces dwindled as better times returned, and Grundy abandoned the leadership and turned his attention to a more promising enterprise, the movement to elect Andrew Jackson president of the United States.

In 1829 Governor Carroll notified the legislature that the "avowed causes which induced the legislature to establish the Bank of the State" had "happily passed away," and requested that that institution be investigated with the view of winding up its business. When a joint committee attempted such an investigation the cashier ran away with the books and refused to produce them until the proposed prosecution was dropped. A shortage of $140,000 was finally discovered and the bank went out of business in 1831.[69]

The motives that prompted Felix Grundy to become the champion of relief in Tennessee are obscure. He was not among those who were suffering; neither did their plight seriously affect him in his practice. His fees came largely from the creditor class and yet he took a firm stand against that group. He championed relief, yet he opposed pre-emption rights for squatters who were about to lose their homes. Apparently he was playing

[68] Archibald D. Murphey to Thomas Ruffin, August 18, 1822; *id.* to John Haywood, August 18, 1822, in Hoyt (ed.), *Papers of Archibald D. Murphey*, in *loc. cit.*, I, 251 ff.; K. P. Battle, *History of the University of North Carolina* (Raleigh, 1907–1912), I, 383; Tennessee *Public Acts*, 1822, pp. 8–9.

[69] Tennessee *Senate Journal*, 1829, pp. 94 ff.; 1831, pp. 6 ff.

to the popular side when he favored relief for the debtor class and upheld the rights of occupants against speculators. Some denounced him as a demagogue and one who would go to any extreme in his quest for "vulgar popularity." Others saw in him a true friend of the oppressed. But all agreed that he was a master of political strategy.

Chapter IX

AN EARLY JACKSON LEADER

FROM the time of Grundy's removal to Tennessee, he and Andrew Jackson were never enemies. They frequently differed but those differences were never serious enough to cause a break between them. On the other hand, it cannot be said that the two were ever warm personal friends. Their friendship can best be described as political. The services of the adroit Grundy were needed by the blunt Jackson, and the prestige of the Old Hero was needed by Grundy the politician. The qualities of each complemented the other.

During Grundy's term in Congress he and Jackson maintained a steady correspondence. Grundy, being untrained in military matters, relied upon Jackson for advice in recommending military appointments. Upon the return of General Jackson from both the Creek War and the New Orleans campaign, it was Grundy, "the people's great orator," who extended to him the official welcomes.[1] It was also Grundy who urged upon Jackson the propriety of going to Washington to defend himself against those who so violently assailed the General for his conduct in Florida.[2] Although Jackson bitterly at-

[1] Arthur St. Clair Colyar, *Life and Times of Andrew Jackson* (Nashville, 1904), I, 192, 372

[2] Grundy to Jackson, January 2, 1819, in Bassett (ed.), *Correspondence of Andrew Jackson*, VI, 469.

tacked Grundy's plan for relief in Tennessee, it did not result in a break between them.

When a group of Jackson's friends in Tennessee decided to make a desperate effort to place the General in the president's chair, it was Grundy who took over the management of affairs within the legislature. There is little doubt but that, personally, Grundy would have preferred either Clay or Calhoun to Jackson. But Grundy had a great amount of state pride. Nothing could increase the prestige of Tennessee quite so much as making her Hero president. If success should crown the effort, those who had figured prominently would occupy a position of high regard among the people. Accordingly, Grundy assumed the task of engineering the nomination.

On June 27, 1822, he dispatched a letter to Jackson, stating that the General's friends desired to know if there was any good reason why his name should not be brought forward as a candidate for the presidency. The General Assembly was to meet in a called session on July 22, and Grundy believed action should be taken on the matter. Grundy thought there would be no doubt but that Tennessee would give Jackson a unanimous vote. "Indeed," continued Grundy, "I believe the anxiety of many on this subject is increased by the consideration, that it will afford the Citizens of this State an opportunity of refuting the Slander which has gone abroad, That, 'You are not popular at home; by which the people of this State are indirectly charged, with ingratitude and insensibility to your public services." Jackson was requested to think the matter over thoroughly and, when he came to Nashville, Grundy would call upon him and get his answer.[3]

[3] *Id.* to *id.*, June 27, 1822, *ibid.*, III, 163–64.

Apparently Jackson did not reply to Grundy's letter and there is no evidence of a conference between them. But he undoubtedly familiarized himself with the contents of the letter and his silence certainly placed no prohibition on the action proposed by Grundy. The nominating resolution was ready when the legislature convened in special session on July 22. Five days later the House met as usual and then voted to recess with the provision that all members were to remain in their seats. In order to give the proceedings the appearance of receiving state-wide sanction, the Grundy resolution was presented by Miller of Knox County.[4]

The preamble to the resolution called attention to the fact that nearly all of those who had aided in achieving American independence and in laying the foundations of the Union had passed away. It was therefore necessary for the people to select a president from another generation. In Andrew Jackson "they behold the soldier, the statesman, and the honest man; he deliberates, he decides, and he acts; he is calm in deliberation, cautious in decision, efficient in action. . . . The welfare of a country may be safely entrusted to the hands of him who has experienced every privation, and encountered every danger, to promote its safety, its honor, and its glory." This resolution placing Jackson in nomination for the presidency passed the House with unanimous consent.[5] But some opposition was encountered in the Senate and action by that body was delayed for several days.

The nomination of Jackson by the Tennessee legislature was only a part of the problem that faced his

[4] Biographers of Jackson give July 20 as the date of the nomination. The session did not open until July 22.

[5] Nashville *Whig*, July 31, 1822; *Niles' Weekly Register*, XXII (1822), 402; Nashville *Republican*, April 23, 1825.

friends. The congressional caucus was almost certain to be dominated by Virginia and that state leaned heavily toward William H. Crawford. Jackson's hopes lay with the people, not with the political leaders. Since it had become a precedent that the caucus nominee became president, the power of "King Caucus" must be weakened if not broken. To that end Grundy next turned his attention; he placed before the legislature a set of resolutions instructing the senators and requesting the representatives from Tennessee to "use their exertions to prevent" a caucus nomination. The resolutions were adopted and the Governor was directed to transmit copies of them to the state executives with the request that they be placed before their legislatures.[6]

In offering his resolutions, Grundy declared that the Constitution intended the three branches of government to be distinctly separate. Congressmen were not permitted to become electors; therefore, he was unable to see why those gentlemen should exercise so important a function as the nominating of candidates. Such a practice, if continued, would force the executive to recognize a certain degree of dependence upon the legislative branch. Furthermore, the hope for executive patronage might play a prominent part in the nomination of a certain candidate. A nomination by congressional caucus was both impolitic and unconstitutional. In the first place, the choice of the president might devolve upon Congress, the members of which had already prejudiced themselves by participating in the caucus. Further, the caucus nominations might at some time "acquire the force of precedents" and thereby endanger the liberties of the people. The election of a president ought to be

[6] *Niles' Weekly Register,* XXV (1823), 139; Tennessee *House Journal,* 1823, pp. 79–84.

left to the people themselves instead of being influenced by Congress.[7]

Although Jackson made no effort to prevent his nomination, there was no certainty that he would accept it. Apparently there were prominent men within the state who earnestly desired to see him refuse to make the race, and there is evidence that Grundy was among the number. On February 1, 1823, Governor Carroll wrote an encouraging letter to Henry Clay. If Jackson should refuse to enter the contest Clay could "rely with the utmost confidence on the support of Tennessee." He had held a conversation with Grundy and received from that gentleman a statement that "if the prospects of General Jackson became hopeless" he would be for Clay. In such an eventuality, Grundy would endeavor to have the Kentuckian nominated by the Tennessee legislature. Grundy, Carroll added, is "cautious in the expression of his sentiments . . . when his interests bid him be silent," but he has "more influence than any other person in our Legislature, and when he brings forward any measure in that body, he supports it fearlessly and most generally succeeds." Since the two were well known to each other, a letter from Clay to Grundy might not "be amiss." [8] If Clay wrote Grundy, the letter was not preserved. Meanwhile, Jackson learned of Carroll's interest in Clay and resolved not to decline.[9]

There was no certainty that the Tennessee resolutions in opposition to the caucus would be favorably received by the other states, and if they were, the effect they would have upon Congress was uncertain. There had

[7] *Niles' Weekly Register,* XXV (1823), 137–38.

[8] Carroll to Clay, February 1, 1823, in Clay Papers.

[9] Jackson to John Coffee, March 10, 1823, in Bassett (ed.), *Correspondence of Andrew Jackson,* III, 192.

been a rumor circulated in the other states that Jackson's own state was hostile to him. That rumor would appear to be verified if the Tennessee delegation took part in the caucus and did not support Jackson. Senator John Williams, whose term was about to expire, was no friend of Jackson, having severely condemned his actions in the Seminole campaign. He was also credited with having circulated rumors of Jackson's unpopularity at home. The General's friends reasoned that to play safe Williams should not be returned to the Senate.[10] Capitalizing upon Jackson's popularity, he was brought forward as a candidate and elected by a majority of ten votes.[11] What part Grundy took in this senatorial contest is uncertain. Some of Jackson's friends believed he favored Williams and had introduced his set of resolutions to prevent the incumbent from being forced to vote for Jackson in the caucus.[12] Such an interpretation of Grundy's motives was disproved by both his previous and subsequent actions as well as the attitude that Jackson maintained toward him.

The Grundy resolutions did serve to weaken the caucus. Although only Maryland and Alabama acted favorably, heated debates were precipitated in several legislatures. Even in Virginia an anticaucus resolution failed in the legislature by only one vote. When the caucus did meet, only sixty-eight members attended and sixty-four of those voted for Crawford.[13]

[10] John Spencer Bassett, *Life of Andrew Jackson* (New York, 1911), I, 337–38; Marquis James, *Andrew Jackson: Portrait of a President* (Indianapolis, 1937), 377–78.

[11] Tennessee *House Journal*, 1823, p. 77.

[12] William Brady and Thomas Williamson to Jackson, September 20, 1823, in Bassett (ed.), *Correspondence of Andrew Jackson*, III, 209–10.

[13] Edward Stanwood, *A History of the Presidency* (Boston, 1928), I, 131.

The results of the election of 1824 gave Jackson a plurality of almost fifty thousand popular votes. This figure, however, means little when consideration is given to the fact that electors in six states were chosen by the legislature rather than by popular vote. In the electoral college Jackson received ninety-nine votes to eighty-four for Adams, forty-one for Crawford, and thirty-seven for Clay. Since no candidate received a majority the duty of selecting a president devolved upon the House of Representatives. After much political maneuvering in which the Adams and Clay supporters formed a coalition, Adams was elected on the first ballot.[14]

Grundy was keenly disappointed—as were practically all Tennesseans—over the defeat of Andrew Jackson. In an open letter to the voters of Rutherford, Williamson, and Davidson counties, he gave voice to his dissatisfaction and expressed himself in favor of an amendment to the Constitution "so as to preserve to the states, respectively, their present relative weight and influence —and give, directly, to the people themselves the right of electing the President, and Vice President . . . apart from the interference of the House of Representatives." The members of the House, he averred, had taken the wrong view in the recent selection of Adams. Instead of attempting to represent their constituents, they had considered their voting as a personal affair. He was still for Andrew Jackson just as much as when he framed the resolutions nominating him and those in opposition to the caucus.[15] Grundy was undoubtedly sincere in his remarks, but his subsequent announcement as a candidate for Congress causes one to suspect that he was grinding his own political axe at the same moment.

[14] *Ibid.*, 135–40. [15] Nashville *Republican*, October 28, 1826.

In 1827 Congressman Sam Houston announced his candidacy for governor. Both Grundy and John Bell became candidates to occupy the seat left vacant by Houston. Grundy was twenty years the senior of Bell and had behind him years of rich experience. Bell's experience in public life was limited to a short period in the state Senate. Both men were avowed supporters of Jackson's presidential aspirations, but Grundy was probably closer to him than was Bell. It was charged that Bell was backed by Governor Carroll, who was no longer considered as being on good terms with Jackson. But the Governor had the support of that strong wave of young democracy which continued him in office so long. Jackson heartily supported Grundy, casting an open ballot for him and electioneering in his behalf on the day of voting. To Grundy also swung the veterans of 1812; yet he was defeated by over one thousand votes.[16] How the combined strength of Grundy and Jackson could be defeated in 1827 and Jackson receive 95 per cent of the votes of Tennessee in 1828 is difficult to understand. It was merely one of several cases in which Tennessee gave the General her support in national affairs yet rejected his leadership in state affairs.

Grundy's reward was not long delayed. When Jackson took office in 1829, he called into his cabinet Senator John H. Eaton. The legislature then selected Grundy to fill the vacancy. It was rumored, and seems quite probable, that Jackson desired the legislature to choose

[16] John Robb to Jackson, August 28, 1827, in Jackson Papers; Baltimore *Patriot*, August 27, 1827; Albert Virgil Goodpasture, "John Bell's Political Revolt and His Vauxhall Garden Speech," in *Tennessee Historical Magazine*, II (1916), 256; Nashville *Republican*, August 18, 1835; Nashville *Republican Banner*, August 11, 1838.

Grundy, but he was discreet enough to make no public statements to that effect.[17]

By way of victory celebration, Mrs. Jacob McGavock, Grundy's daughter, and her husband gave the legislators a party following the election. "The supper excelled anything . . . ever seen in Nashville. The house had double parlors down-stairs, and the rooms just above them also had folding doors between them. They went to New Orleans and got a French confectioner to prepare the supper. The table was set up-stairs in the room over the parlor. The folding doors were open, and the table extended from one room to the other. At each end the table was set in the shape of a cross, and where the table went through the folding doors there was a large pyramid, which was at least three feet high, made of beautiful jelly put in glasses. Dispersed all over the tables were vases of beautiful artificial flowers, with glass globes over each vase. The candlesticks were of silver, and each one held three beautiful wax candles. Long leaves were cut out of tissue-paper, dipped in spermaceti, and covered with isinglass, which made them look like crystallized candy. These were put around each candle, and hung down over the candlestick. On the tables were all kinds of large and small cakes, confectionery, and fruits. They had dancing down-stairs." [18] An elaborate affair for Jackson Democratic Republicans!

Grundy entered the Senate as the friend of both the President and the Vice-President. For many years he had held Calhoun in high regard and the feeling seems to have been reciprocated. Although it had been almost twenty years since the two had been associated in public

[17] Tennessee *House Journal*, 1829, p. 174; Knoxville *Register*, October 28, 1829; Phelan, *History of Tennessee*, 364.

[18] Jane Thomas, *Old Days in Nashville* (Nashville, 1897), 57.

life, they had not lost touch with each other. In 1816 Calhoun had written Grundy: "I would be glad to hear from you frequently and to have your opinion on all the great political occurances [*sic*] of the country. From long and intimate personal acquaintance, I have been taught to pay great respect to the soundness of your judgment." [19] Grundy was a strong supporter of Calhoun for the vice-presidency. Soon after the selection of electors in 1828, Grundy had been approached by Crawford with a proposition to put Calhoun aside and elect Nathaniel Macon vice-president. He replied that he considered the Tennessee electors already pledged to the support of Calhoun. To Jackson, he suggested that a future split in the ranks of the party was in evidence.[20] In his prophecy Grundy was correct, but in his location of the break he was in error. He believed the Crawford faction would probably break with the Administration on account of a dislike for Calhoun.

The well-known break between Jackson and Calhoun had its beginning in the spring of 1830. There had developed in South Carolina a doctrine which held that a state could declare null and void a law which it believed unconstitutional. During the debate on the Foot Resolution, the South Carolina doctrine was openly proclaimed in Congress. Acting upon the advice of Martin Van Buren and apparently seeking a pretext for an open break with Calhoun, Jackson decided to take a definite stand in opposition to the doctrine of nullification. A break in the party, which was so much feared by Grundy, was about to enter its first phase.

The occasion was a dinner held in Washington on

[19] Calhoun to Grundy, December 12, 1816, in possession of Colonel Henry Dickinson, Nashville.

[20] Grundy to Jackson, November 20, 1828, in Jackson Papers.

April 13, 1830, in commemoration of the birth of Thomas Jefferson. A huge throng of Democratic Republicans was present. Grundy, as one of the vice-presidents, presided over the second table. At that table also sat Van Buren, the tricky "Red Fox" from New York, who played no small part in the downfall of Calhoun. When the toasts were being drunk, Jackson startled the crowd with "The Federal Union: It must be preserved." The somewhat agitated Calhoun replied with "The Union: Next to our Liberties, the most dear." But Grundy called for party harmony: "The Republican party throughout the nation: May they be as harmonious in action as they are united in principle." [21] The break in the party had begun to open, and Grundy "had too strong a taste for political manœuvreing—within allowable boundaries—and was too experienced a tactician to have failed in seeing the bearing of the whole thing."[22] Although taking pains to conceal his attitude, he was favorable toward Calhoun at that time for he had also openly advocated the doctrine of nullification.[23]

The second step in the break was soon to follow. Crawford, a disappointed candidate for the presidency in 1824–1825, was in no frame of mind to allow Calhoun to succeed Jackson. The hostility between Calhoun and Crawford dated back to the years when both were members of Monroe's cabinet. Both had had their eyes on

[21] Washington *National Intelligencer*, April 19, 1830. For new light on this subject, especially Thomas H. Benton's part in arranging for the Dinner, see Richard R. Stenberg, "The Jefferson Birthday Dinner, 1830," in *Journal of Southern History*, IV (1938), 334–45.

[22] John C. Fitzpatrick (ed.), *The Autobiography of Martin Van Buren*, in American Historical Association, *Annual Report*, 1918, II, 382.

[23] *Ibid.*, 415.

the presidency. In order to discredit Crawford, the friends of Calhoun had caused the circulation of a rumor that certain irregularities existed in Crawford's office. An investigation showed that the rumor was without foundation, but it had left the two men in an unfriendly mood. Nevertheless, Crawford had kept secret for several years certain information which if made public would in all probability seriously affect the friendship between Jackson and Calhoun. The latter, while a member of Monroe's cabinet, had criticized Jackson for his conduct in the Florida campaign, but Jackson had for several years continued under the impression that Calhoun had been friendly. He believed Crawford to have been the guilty party and had stated in 1821 that he would support the Devil for the presidency rather than Crawford.[24] But since a break between Calhoun and Jackson had made its appearance, it was within Crawford's power to assist in the political destruction of Calhoun. Van Buren realized the political importance of the Crawford story and saw to it that the President was informed. This information was not unwelcome to Jackson, and it was immediately used as an excuse for a new attack upon Calhoun. Jackson addressed a note to Calhoun inquiring as to the truth of Crawford's accusation, and a spirited correspondence followed. Calhoun reluctantly admitted that his attitude on the Florida affair had not been friendly.

Calhoun, in desperation, arrived at the conclusion that his only hope of defense before the people lay in the publication of the complete correspondence together with an address of explanation. When Grundy learned what his friend Calhoun was contemplating, he almost despaired of the restoration of party harmony. He wrote

[24] Jackson to James Gadsden, December 8, 1821, in Jackson Papers.

to a friend: "I fear . . . the misunderstanding between the president & vice president cannot be healed— I have done all, I could, to bring them together and have not yet succeeded— I am afraid to go much further. If men want to differ, a peacemaker may make himself odious by interfering too much— I have given to each my full views on the subject and portrayed all the consequences to them and the country— Each received my opinions kindly, and expressed their regret at the existing state of things—but neither seemed anxious to find a remedy. I told Mr. Calhoun, that in a private quarrell [*sic*] between them I had no concern, in a public one—my feelings would be with Gen. Jackson,[25] he replied, that was what he expected, but he hoped things would not go to extrimities [*sic*], so as to effect [*sic*] their friends— I still trust, that no publication of their correspondence will take place— If it should neither of them will suffer much from the contents, but some others will, and the fact of an open war between two head men must injure the party and help the enemy—on this account the effort now is to prevent a publication." [26]

Calhoun had definitely decided in favor of publication. Grundy then planned to persuade Calhoun to modify his comments so as to cause the least stir. Should the correspondence, when published, be accompanied by strong comments by Calhoun, Jackson would unquestionably feel that an answer from him was necessary. A long newspaper war would likely follow, delighting the opposition but wrecking the Democratic Republican party. As a friend to both controversialists and

[25] This statement was verified by a letter from Calhoun to Grundy, June 8, 1831, in possession of Colonel Dickinson.

[26] Grundy to Graham, January 24, 1831, in possession of Colonel Dickinson.

as a firm believer in party solidarity, Grundy assumed the role of an intermediary. He and Richard M. Johnson called upon Francis P. Blair, the editor of the *Globe,* who at that time was not unfriendly to Calhoun. They insisted that Blair should publish the correspondence for Calhoun, but should preface the publication with a statement that it was not an attack upon Jackson. Blair was afraid. He rejected the proposal on the ground that no comment he might make as to the publication would prevent the party rupture which was certain to follow.[27]

Grundy next held a conference with Eaton. Both were deeply concerned over the effect that the publication would have upon the Administration and the Democratic Republican party. Grundy informed Eaton that Calhoun could not be dissuaded from his determination to publish the correspondence, and that he intended accompanying the publication by an address. Fearing that this address might contain something which would be offensive to Jackson, it was decided that since Grundy was a friend of Calhoun he should request permission to examine the proposed message of explanation with a view to making some suggestions. He and Eaton would go over the manuscript and attempt to tone it down.

On the following morning Grundy called at the lodging of Calhoun and stated his business, giving the name of the person who was to assist him. Calhoun readily consented. After the adjournment of the Senate in the afternoon, Grundy secured the document and notified Eaton to come to his room that evening. The two went over the manuscript and made such suggestions as they thought proper. Grundy made a note of them so that they could be given to Calhoun. It was believed that if Jackson knew what part his friends had taken in the

[27] Fitzpatrick (ed.), *Autobiography of Martin Van Buren,* 377.

matter and that Calhoun accepted their suggestions, he would be less likely to become incensed by the publication. Accordingly, Grundy agreed to return the manuscript to Calhoun and insist that he make the suggested changes, while Eaton, being very close to Jackson, was to explain the matter to the President. Both parties to the controversy would then know what to expect.

Grundy performed his part of the task and notified Eaton of his success. Eaton, after reflection, for some reason changed his mind and did not speak to Jackson about the matter. Neither did Grundy receive word that Eaton had failed to carry out his part of the agreement. Grundy, therefore, felt assured that the President knew what to expect and appreciated the efforts of his friends sufficiently to let the matter drop. Calhoun evidently acted under the impression that Jackson would raise no objections. He forwarded a copy of the pamphlet to Eaton on the day before it was made public, but Eaton still did not inform the President.[28] The lack of love for Calhoun on account of the part he had taken in the Peggy Eaton affair was probably a strong force in causing the Major to change his mind. He undoubtedly desired the downfall of Calhoun.

The pamphlet appeared on February 15, 1831, and caught Jackson without previous knowledge of its contents. The toning process had not gone far enough to render the document inoffensive to Jackson. The press immediately took up the issue. The *Globe* attacked Calhoun and the *Telegraph* defended him. The break had come and was complete. A potential president had been destroyed and the wily "Red Fox" who had remained

[28] *National Banner and Nashville Whig*, June 24, 1833; Washington *Globe*, March 26, 183.; Fitzpatrick (ed.), *Autobiography of Martin Van Buren*, 377–80.

behind the scene and skillfully managed the destruction became the heir apparent to the presidency.

It is an error to state, as some of Grundy's enemies later did, that Grundy and Eaton acted as representatives of Calhoun and Jackson respectively. Grundy did serve as a friend of Calhoun but he was at the same time a friend to Jackson. It is true that Major Eaton was probably closer to Jackson. The effort put forth by Grundy in his attempt to prevent the complete estrangement of the leaders of the party was among the most commendable acts of his public life.

Chapter X

ABOUT-FACE ON NULLIFICATION

THE debate on the Foot Resolution concerning public lands has become famous, but not for what was said on the subject. It gave sectionalism an opportunity to express itself. Of the numerous questions paraded before the eyes of the public in the course of the debate, nullification was not the least important. The doctrine was not new in 1830, but it had not yet been widely advocated by its proponents. For several years in South Carolina the growing opposition to the protective tariff had augured trouble for the future. By 1827 the nationalist, John C. Calhoun, had joined the opposition. His views were anonymously expressed in the South Carolina *Exposition* which was published in reply to the tariff of 1828. The tariff was pronounced not only unfair but unconstitutional. People of one section were being oppressed and deprived of their liberty in order that another section might enjoy the blessings of prosperity. Congress, by sanctioning such a situation by law, had overstepped its constitutional powers. There was only one way to check that excessive exercise of power and that was for a convention in the oppressed state to declare the law null and void. In case the other states did not concur in the action of the complaining state, they could grant to Congress specific power to enact such a

law.[1] Since Calhoun was already vice-president and a candidate for re-election, it was politically necessary that the authorship of the *Exposition* be kept a secret for the time being.

The foremost question in the minds of the nullifiers concerned the probable position the new President and Congress would take on the tariff question. Until that question could be definitely answered, silence would be advisable. Silence prevailed for approximately a year, but was broken by the debate on the Foot Resolution. Although the two subjects were not directly related, the discussion drifted from lands to slavery, to the tariff, and to the nature of the Union. During the course of the famous Webster-Hayne debate, Hayne reiterated in part the doctrine set forth in the *Exposition*. He added that either a legislature or a state convention was competent to set aside a law until it should be declared constitutional by three fourths of the states. Webster replied that there was no method by which a state could nullify a national law. Twenty-four states could not possibly act as arbiters or else the Union would become a "rope of sand." If the Federal government should exceed the limits of its powers, there were three methods for obtaining relief—through the judiciary, the ballot, or amendment to the Constitution.[2]

As the debate continued, the Administration senators entered the contest. That Andrew Jackson did not at that time consider nullification a serious threat needs no better proof than the speech of Felix Grundy. He was "of all the Senate, nearest the President." [3] The nul-

[1] Frederic Bancroft, *Calhoun and the South Carolina Nullification Movement* (Baltimore, 1928), 38 ff.

[2] *Cong. Debates*, 21 Cong., 1 Sess., 43 ff.

[3] Charles W. March, *Reminiscences of Congress* (New York, 1850), 95.

lifiers, knowing that relationship, listened with high hopes as Grundy openly advocated nullification. One enthusiastic newspaper ventured to assert that even the President would, in all probability, consistently maintain the principles laid down by Hayne.[4]

To Grundy, it seemed that Webster and Hayne had occupied the two extremes. He was unwilling to go the distance with either and so marked out a middle course. To him the question under consideration was "in the event Congress should transcend the limits or boundaries of its constitutional powers, to ascertain where we are to look for the ultimate corrective tribunal." He would not agree that such power was vested in either the judiciary or the state legislatures. Both of those bodies were creatures of one or the other parties to the controversy. The Supreme Court had been created by Congress in accordance with that provision of the Constitution which had authorized such a court. The number of judges had been left for Congress to determine. Under such a condition, it was possible to have a Court of only one judge or else the Court could be packed so as to guarantee the molding of decisions favorable to the dominant party. He would admit that in all cases arising under the Constitution the Supreme Court had the final voice. But such a dependent body would be incompetent as a final arbiter in a case to which Congress was a party. On the other hand, the state legislatures were creatures of the state, and likewise would be incompetent as a final arbiter in any case where the state was a party. A state convention, however, would be neither the creature of a state government nor of the

[4] Chauncey S. Boucher, *The Nullification Controversy in South Carolina* (Chicago, 1916), 65.

Federal government, but of the people, and would not likely be dominated by ambitious politicians.

The states, argued Grundy, were older than the Federal government and originally possessed complete sovereign rights. In order to put forth a co-operative effort, when demanded, those thirteen sovereign states banded themselves together into a Union. To that Union were transferred certain rights which originally belonged to the states. Thus the general government was constructed "from grants of power yielded up by the State Governments." That Union had been approved by the people, not through their state legislatures, but by conventions selected for that purpose. Since the final voice as to granting powers had been vested in the people, likewise the final and conclusive decision as to alleged violation of those powers was vested in the people and must be exercised through state conventions. Accordingly, if Congress should exceed its constitutional authority and its action should prove oppressive to any state, the said state was not bound to submit. She should inform the government of the usurpation and ask for relief as did Virginia and Kentucky in 1798–1799. If no relief came, the state should not withdraw from the Union. The injured or oppressed state should then call a convention for the purpose of deciding whether her rights had been invaded. If, after careful deliberation, that body decided in the affirmative, then the act in question "must cease to operate in the State; and Congress must acquiesce, by abandoning the power, or obtain an express grant from the great source from which all its powers are drawn." In such a case, the government possessed no right to resort to arms to coerce the state. The appeal must be to conventions of the other states. "I do not hesitate to

say," explained Grundy, "that the power on the part of the States to compel such an appeal is indispensable to the existence of their sovereignty, and to the preservation of their reserved rights." If such were not the case, then the Constitution would become nothing more than the general government's construction of that document.

Should Congress decide to take an appeal to the states, and should conventions in three fourths of them refuse to concur in the unconstitutionality of the law, the complaining state would be compelled to abide by the law in question. On the other hand, should three fourths of the conventions concur, the general government must then acquiesce.[5] Grundy developed his doctrine no further than this point, therefore his views contained nothing that had not already been expressed by Calhoun. The latter as a last resort sanctioned secession, but Grundy made no provision to take care of the possibility that one of the parties might refuse to obey the decision.

Grundy's speech was enthusiastically received in Tennessee. It was the finest effort he ever made, declared the *Register*. For "argument and eloquence combined" it had never been surpassed in the Senate, exclaimed the *Republican*.[6] Such enthusiasm is interesting when viewed in the light of the future attitude of those newspapers. If Jackson disapproved of Grundy's position, there seems to be no record of it. Nullification was not yet an issue and while the doctrine was real the possibility of its application was remote. Although the Webster group was bitter, not all of the eastern press was

[5] *Cong. Debates*, 21 Cong., 1 Sess., 210 ff.

[6] Knoxville *Registe* , April 7, 1830; Nashville *Republican*, March 10, 1830.

hostile. The Albany *Argus* believed Grundy's to be "the practical democratic and constitutional doctrine." The *Eastern Argus* pronounced the speech "a treat to the mind" and one that "rises into eloquence that fires the imagination with grandeur." [7] Naturally, the nullifiers were pleased with the position taken by the "first friend" of the President. Their enthusiasm was soon to receive a sudden shock.

Grundy had spoken in the Senate on February 29, 1830. On April 13 the celebrated Jefferson Day dinner was held. The question of nullification had been given so much prominence that Jackson decided to state definitely his position. He dampened the enthusiasm of the nullifiers with his famous toast—"The Federal Union: It must be preserved," but the embers needed only another tariff to fan them into the blaze of nullification.

When Clay entered the Senate in 1831, he was an avowed candidate for the presidency. New York and Pennsylvania, he reasoned, were essential to the reelection of Jackson. In the latter state, friends of both the Bank and the tariff were strong. Jackson opposed the Bank and favored reducing the tariff to a point that would pacify the southern states. There was one topic, however, that greatly disturbed Clay—Jackson advocated paying off the national debt. If he should be successful in this, it would give him a great electioneering point.[8] It was to preserve the protective system and at the same time to prevent Jackson from adding to his laurels by greatly reducing the debt that Clay, on January 9, 1832, introduced his tariff resolution: "That

[7] Albany (New York) *Argus,* Portland (Maine) *Eastern Argus,* quoted in Nashville *Republican,* April 20, 1830.

[8] Bassett, *Life of Andrew Jackson,* I, 692; Claude G. Bowers, *Party Battles of the Jackson Period* (Boston, 1928), 171, 175, 186–87.

the existing duties upon articles imported from foreign countries, and not coming into competition with similar articles made or produced within the United States, ought to be forthwith abolished, except the duties upon wines and silks, and that they ought to be reduced; and that the Committee on Finance be instructed to report a bill accordingly." [9]

It was that step on the part of Clay which called forth the only speech of any length that Grundy ever delivered on the question of the tariff. Early in his public career he had vehemently denounced any system or policy that enabled a favored few to secure a monopoly. In that position he was consistent throughout life. To him, then, a protective system could never be other than obnoxious. It was a system which taxed the many for the benefit of the few. It stifled competition which he considered to be the only guarantee of fair prices. When he argued thus, he was speaking the sentiment of his constituents who were victims of the protective system. Prices in the West, he figured, would be reduced by 50 per cent if trade were allowed to pursue its natural course. In view of that fact, Grundy could see inequality written on the face of the whole system. Any system which deprived the laborer of his hard-earned money to promote the prosperity of the manufacturer was unequal. That group had no special claim upon the government, so far as he could see. Manufacturers had large sums invested but they knew they were taking a chance when the investments were made. Certainly no government could afford to adopt and maintain a policy merely to protect the investments of a few and at the same time deprive many of even the necessities of life. Security, he believed, was essential to prosperity, and there

[9] *Cong. Debates*, 22 Cong., 1 Sess., 55.

could never be security as long as there was dependence upon the continuation of a privilege.

Grundy was not unmindful of the importance of industries in the life of the nation. He never argued that their interests should be disregarded when adjustments were being made. Neither did he believe that they alone should be considered. To live and allow to live was the policy he advocated. With such views, he was never able to follow either Jackson or Clay on the tariff question. Jackson, he explained, favored a "reasonable and judicious" tariff while Clay favored an "unreasonable and injudicious" one. As for himself, he believed that revenue alone should always be the primary object when duties were being levied. Protection he considered as only "incidental and subordinate." The demand for protection must be due either to the fact that the same article could be manufactured more cheaply in a foreign country or else the domestic manufacturer desired to make unreasonable profits. That European labor was cheap, there could be no doubt. In order to combat this cheap labor, the standards of American laborers must either be lowered or the American people taxed to make up the difference. To the former, Grundy would never consent. He agreed to the latter as the only solution. He favored making up the difference only, not the difference plus profits. To do more than that, he maintained, was placing the country at the mercy of domestic manufacturers by taxing foreign goods to the point of prohibiting them. Rather than have a condition like that, he favored free trade in the exchange of the products of European factories for the abundant American agricultural products.

Grundy was unwilling that the tariff controversy should continue to go unsettled. Steps should be taken

toward adjusting it to the needs of the country as a whole. The national debt would soon be paid and there would then be no need for so huge an amount of revenue. Approximately $10,000,000 would be needed from the tariff. Why, then, continue to tax the people at the rate of $26,000,000? He could not believe the people would "for any great length of time, submit to high taxation, merely for the purpose of protecting manufactures." If the government would act wisely, it would consult all interests when levying a tariff. The feeling manifested in several of the southern states foretold trouble should their interests be continually disregarded.

Grundy believed that a plan which he had to offer would give to the domestic manufacturer a fair competition with foreign articles and at the same time place only a minimum burden upon the purchaser. He proposed that the price of production of an article in Europe be ascertained, and to that price be added the cost of transportation to our ports. The cost of producing the same article in America should next be determined, and then a duty should be levied which would be sufficient to make the total cost of the foreign article in our ports equal to the total cost of producing the same article in America. That, he felt, would be fair competition and would guarantee reasonable prices. Anything beyond that point he termed as "monopoly in favor of domestic manufactures, and injustice to the community."

Although bitterly opposed to a high tariff, Grundy never denounced it on unconstitutional grounds. The states, he considered, had transferred to the general government the power to regulate commerce and had placed no limit upon that power. All tariffs were either constitutional or unconstitutional. There could be no line of demarcation drawn between them. He, however, could

see a clear distinction between the lack and the abuse of a power. Congress possessed an unlimited power to regulate commerce but that power had been badly abused. "Although I disapprove and condemn the tariff laws as inflicting great injustice upon a large portion of the community; and although I am willing to join with those who differ with me upon the last point [question of constitutionality] discussed, in the reduction of duties and public burdens, I cannot unite with them in pronouncing these laws unconstitutional." [10]

Clay's resolution, which occasioned the expression of Grundy's views on the tariff, did not result in the tariff act of 1832. That bill came from the House and was sponsored by John Quincy Adams. Although the Adams bill removed some of the objectionable features of the act of 1828 and made some reductions, it was framed with the view of making protection a permanent policy. For that reason, it was wholly distasteful to the nullifiers.

The majority of the South Carolina delegation in Congress immediately issued an appeal to the people of their state. The appeal announced that as far as Congress was concerned the question of the tariff was settled in favor of protection, and that the people of South Carolina need no longer entertain hopes for relief from that body.[11] In other words, the appeal informed the Carolinians that if any relief came it would be the result of the activities of their state. What happened is a familiar story. A South Carolina convention decreed that the tariff laws of 1828 and 1832 were null and void, and that no duties should be collected in her ports. President Jackson replied with his Nullification Procla-

[10] *Ibid.*, 393 ff.

[11] Bancroft, *Calhoun and the South Carolina Nullification Movement*, 119.

mation, denouncing nullification, making an appeal for the Union, and warning that in any event the Federal laws would be enforced. The controversy was on, and the principal characters were President Andrew Jackson and Vice-President John C. Calhoun. Almost immediately the latter resigned to accept a seat in the Senate where he could more effectively defend nullification.

Felix Grundy had come to the parting of the ways. His efforts in the direction of party harmony had resulted in failure. In one direction moved his friend and kinsman, Calhoun. In the opposite direction moved his Chief and fellow Tennessean, Jackson. He must choose his leader. That Grundy had been a close friend of Calhoun for many years could not be denied; neither could it be denied that in 1830 he had definitely allied himself with nullification. To forsake Calhoun not only required the forsaking of a friend but of a principle as well. It was evident that nullification had gone further than Grundy had ever dreamed it would. He had taken pains to end his doctrine before it reached the point of the clash of arms. The one eventuality for which Grundy had not prepared had made its appearance.

On the other hand, Grundy was a strong Administration man, if not from love, at least from admiration and political necessity. The state of Tennessee was devoted to Andrew Jackson and anyone who deserted the Old Hero would endanger his own position in public life. Personal inclination drew Grundy toward Calhoun; duty and regard for the future drew him toward Jackson. The pull of the latter was the stronger and Grundy did an about-face on the question of nullification, repented of his sins, and became the President's chief lieutenant in the Senate during the controversy.

Nothing was of greater assistance to Grundy in the

selection of his "leader" than the news that drifted in from across the mountains. The action of South Carolina changed the viewpoint of Tennessee. The press, which had so favorably commented on Grundy's speech of 1830, now became bitter in its denunciation of the doctrine of nullification. That which in its remoteness seemed harmless became intolerable in its actuality. Grundy's ear was especially trained upon his home state since his term of office would expire on March 3, 1833. No stronger force could have been used upon a politician in his situation than the following: "If Mr. Calhoun is a nullifier, you [Grundy] are one—if Mr. Hayne is a nullifier, you are one—if you are a nullifier, they are nullifiers—so you are all nullifiers together or you are not nullifiers." [12] He must redeem himself.

The impression made on the neighboring states by the Proclamation of December 10, 1832, was all that could have been reasonably expected by the President, but in South Carolina the nullifiers became even more defiant. Apparently they intended to resist by force. So did Jackson. On January 16 he called upon Congress for the authority to use the army and navy to collect the revenue in the ports of the nullifying state, and to transfer to the Federal courts such cases as might arise from the controversy.[13]

In the meantime, an Administration tariff measure had been introduced in the House by Gulian C. Verplanck of New York. By its provisions, the duties would have been reduced by 50 per cent within a period of two years. Such a plan was not favored by the Clay group since it would both immediately destroy the protective system and give Jackson the credit for the compromise.

12 "C.J.F.," in Nashville *Republican*, October 13, 1831.

13 *Cong. Debates*, 22 Cong., 2 Sess., 244 ff.

While the Verplanck bill was before the House, Clay offered a plan of his own in the Senate. All rates above 20 per cent were to be gradually reduced so that by 1842 that figure would be the maximum.[14] Such a reduction he hoped would pacify the nullifiers and deprive the Administration of the honor of doing it. Through his influence in the House, Clay was able to get his bill substituted for that of Verplanck. Thus Congress had before it both a compromise tariff and a Force bill.

In the Senate committee Calhoun favored the Clay bill, but Grundy was anxious to modify it so as to give the credit to the Administration. He, however, was inclined to support the measure if it could not be amended.[15] With the nullifiers favorable and the Administration group reluctantly supporting it, Clay's "compromise" seemed certain of success. But Jackson was by that time more interested in the Force bill than in the compromise.

The day following the reporting of the Force bill by the Senate committee, Calhoun presented to that body a series of resolutions. He declared the Union to be a compact between states, made possible by individual ratifications. The general government was one of delegated powers and beyond those powers it could not act. No common judge had been provided by the Constitution; therefore, the states must be their own judges "as well of the infraction as of the mode and measure of redress." The states, he declared, were sovereign, and the people of the United States were not a unit. Any action on the part of the Government in opposition to

[14] Bassett, *Life of Andrew Jackson*, I, 575–76.

[15] Daniel Webster to Nathan Appleton, February ?, 1833, in Claude H. Van Tyne (ed.), *Letters of Daniel Webster* (New York, 1909), 179–80.

the above theories was not only unconstitutional but tended "to subvert the sovereignty of the States" and "to destroy the federal character of the Union." [16]

On the following day, Grundy countered Calhoun's resolutions with a set of his own. Our national government, he asserted, was truly one of delegated powers. One power delegated to that government was the authority to lay duties and imposts. In that case the states had made no reservations. The tariff laws of 1828 and 1832 were constitutional, whether just or unjust. Any attempt on the part of a state to nullify an act passed in exercise of a power "exclusively confided by the constitution to Congress" was an encroachment upon the powers of the government. Any attempt to prevent the execution of such a law was unwarranted "by the constitution, and . . . dangerous to the political institutions of the country." [17]

What a departure from the Grundy doctrine of 1830! In that year he would undoubtedly have given his hearty approval of the Calhoun resolutions. They contained nothing that was condemned in his speech on the Foot Resolution. In his new position, he made a distinction between a power that was exclusively confided and one that was not so confided. An act passed in accordance with the former could not be nullified. As to the latter, he did not commit himself. But in 1830 he had proclaimed the sole right of a state to pass on the question of constitutionality, and such a decision was to be final unless it should be reversed by conventions in three fourths of the states. On one point only was his consistency beyond questioning—the tariff was constitutional.

Calhoun begged Grundy to withdraw his resolutions

[16] *Cong. Debates*, 22 Cong., 2 Sess., 191–92.
[17] *Ibid.*, 192–93.

"as an act of justice—a sheer act of justice." The people of South Carolina had seen fit to annul an act of Congress. The sole purpose of his resolutions was "to bring the true question at once before the world." He had hoped to receive a "plain and manly denial" of the facts they contained, but instead he had been greeted by a set of resolutions setting forth the opposite point of view.[18] Grundy was unwilling consciously to do an act of injustice, but he reserved the right to decide for himself as to what constituted an injustice. He believed his course to be strictly parliamentary. The resolutions would not be withdrawn at that time but, if discussion of them should be postponed, he would take the matter under consideration. Calhoun replied with an admission that the course was parliamentary, but it was unjust to pursue it. Grundy answered that he had not aided in passing the tariff laws and was "perfectly ready now to go into an examination of the law, and to make almost any modifications in the scale of duties." He "abhorred the tariff" but was willing to support the bill before the Senate in order to preserve the Union.[19]

Grundy presented his resolutions for the sole purpose of blocking Calhoun. There was no need for passing them, but since they had been offered as a substitute, they must be acted upon before Calhoun's could be considered. Accordingly, since Grundy was unyielding in his refusal to withdraw them, there was no way for Calhoun to get action on his own resolutions. Thus by his stratagem Grundy had defeated Calhoun, and at the same time taken a step toward his own redemption.

Jackson was becoming uneasy. A rumor had reached him that a plan was on foot to set the Force bill aside until Clay's tariff measure had been acted upon. Accord-

[18] *Ibid.*, 237–38. [19] *Ibid.*, 238–40.

ingly, he dispatched a note to his lieutenant, Grundy. "Surely," it ran, "you and all my friends will push that bill through the Senate—this is due to the country—it is due to me, & to the safety of this union and surely you and others of the committee who reported it will never let it slumber one day until it passes the Senate—lay *all* delicacy on this subject aside and compell [*sic*] every mans name to appear upon the journals that the nullifiers may *all* be distinguished from those who are in support of the laws, and the union. . . . I have confidence you will push the bill, the whole bill and nothing but the bill." [20] The Chief had spoken.

Grundy immediately set to work to push the Force bill as rapidly as possible and with a great show of strength. He served as the connecting link between Jackson and both houses of Congress. Passing to and fro among the senators in the smooth manner for which he was noted, he discovered some very pronounced opposition within the state rights group. Willie P. Mangum and Bedford Brown of North Carolina, John Tyler of Virginia, George Bibb of Kentucky, and George Poindexter of Mississippi threatened to oppose the bill with all their strength. Poindexter had already given a preview of what should be expected when he introduced a resolution calling upon the President to place before the Senate copies of all orders issued to naval and military officials located in and near Charleston, especially those orders affecting South Carolina's constituted authorities. The purpose of this resolution seems to have been to exasperate Jackson. A discussion was immediately

[20] Jackson to Grundy, February 13, 1833, in possession of Mrs. Whiteford Cole, Sr., Louisville. A copy of this letter is found in the *American Historical Magazine* (Nashville), V (1900), 137, but the wording is slightly different from the original.

provoked with the President's nearest friend.[21] Grundy objected to the wording of the resolution, and suggested that it be amended so as to call for all orders "so far as may in his judgment be compatible with the public interest." In defense of his amendment, Grundy argued that some orders might involve private individuals and should not be made public. If the amendment should be adopted it would relieve the President of being forced to refuse compliance with a request made by the Senate. He, however, was for holding nothing back and believed that if those orders affected the constituted authorities of South Carolina, both the Senate and the public should have them "without any reservation." [22]

Poindexter opposed the amendment and accused Grundy of attempting to shield the President. In time of war, he declared, such action might be advisable in order to keep information from the enemy, but in time of peace no need for secrecy existed. "I will not say why gentlemen wince at this call; it may appear, on a full disclosure, that there is something rotten in the State of Denmark—yes, rotten, which will not bear examination." He hinted of drawing-room conferences between certain members of the Senate and the President to ascertain the desires of the latter. Grundy responded that his approach to the President was as a constitutional adviser, and therefore he did not rely upon the social character of the drawing room.[23]

Should a person from South Carolina give information to the President and orders be issued as a result, continued Grundy, would the gentleman from Mississippi favor making known the name of the informant?

[21] March, *Reminiscences of Congress*, 219–20.

[22] *Cong. Debates*, 22 Cong., 2 Sess., 405.

[23] *Ibid.*, 406–407; March, *Reminiscences of Congress*, 219.

"Yes, the whole of them," replied Poindexter. But Grundy was unwilling for confidential communications to be made public. After some "good natured bantering" on Grundy's part and expressions of indignation on Poindexter's, the discussion was brought to a close.[24] In the meantime, however, Grundy had talked with the Secretary of War, and had been assured by the President that if the resolution meant "to ask of us to reveal our confidential correspondence with the citizens . . . this at present will not be yielded, altho at a proper time, nothing will be concealed, or wished to be concealed." [25] After learning that Jackson would not hesitate to refuse to reveal such information as he deemed necessary, Grundy withdrew his amendment and Poindexter's resolution passed.

Grundy had learned that Thomas H. Benton and a few others doubted the propriety of the Force bill. They not only had a friendly feeling toward Calhoun, who had taken his seat among them, but they feared that war might be the result. Nevertheless, if it came to a test they would support the bill.[26] A close check showed a majority in favor of the measure, but a mere majority was not satisfactory to Grundy and the Administration. A show of strength, both in numbers and debate, was needed. The supporters of the bill included such able men as George M. Dallas, William Wilkins, William C. Rives, John Forsyth, and Grundy himself, who was described by a contemporary as "a persuasive speaker, of an imposing presence and conciliatory manner, an admirable tactician withal, that understood and could

[24] March, *Reminiscences of Congress*, 220; *Cong. Debates*, 22 Cong., 2 Sess., 407.

[25] Jackson to Grundy, February 7, 1833, in possession of Mrs. James Allison, St. Louis.

[26] March, *Reminiscences of Congress*, 198.

regulate the springs of action." [27] But there was one other member of the Senate whose addition to the group would give it great strength. Upon that man—Daniel Webster—Grundy focused the best efforts of his political strategy. Democrats of both houses were sent in great numbers to wait upon him. There is no certainty that Grundy went in person, but Edward Livingston and other close friends of the Administration did. Webster agreed to participate in the debate.[28]

Writers too often allow the shadows of the great to hide those who helped to make them great. Accounts of the debate on the Force bill present no exception—Webster versus Calhoun, while lesser lights have been relegated to oblivion. Naturally all eyes were upon Calhoun, who had resigned the vice-presidency to take a seat in the Senate and defend nullification. Webster answered Calhoun, basing his speech upon the resolutions as presenting the views of Calhoun on the nature of the Union. Grundy closed the argument for the Judiciary Committee which had reported the Force bill. His speech was not so great as that of either Webster or Calhoun, but it answered a purpose which theirs did not. Calhoun spoke for South Carolina, Webster for the Union, and Grundy for the Administration.

Grundy advocated the Force bill for the sole purpose of preserving the authority of the Union; he certainly wanted no bloodshed. "The true question before the Senate," he exclaimed, "is, shall the State of South Carolina be permitted to put down the revenue laws of the Union, prevent their execution within her limits, and no effort be made by this Government to maintain the majesty of the laws, and to counteract the measures

[27] *Ibid.*

[28] *Ibid.*, 198–99; Bowers, *Party Battles of the Jackson Period*, 274.

adopted by that State to defeat and evade them?" The passage of the Force bill he considered necessary to prevent a bare majority of one state from defeating the will of the other twenty-three. Had South Carolina stopped with a declaration that the tariff law was unconstitutional there would have been no need for a Force bill. The Supreme Court could have then decided the case. But South Carolina had gone too far and had passed a replevin law which would permit the owner of goods in the hands of collectors, and upon which the duty had not been paid, "to sue out the writ of replevin." Such an act was certain to lead to a clash of arms. Once a collector refused to give up the goods and they were taken from him by force, the clash would follow. South Carolina had provided for a force to put down the tariff law, and the least the Federal government could do would be to provide a similar force to sustain the law.

The bill before the Senate also called for authority to transfer to the Federal courts all cases arising from the controversy. That measure was absolutely necessary, Grundy considered, since the new laws of South Carolina forbade an appeal to the Federal courts, and even prohibited the victim from securing a copy of the records. In short, South Carolina had "legislated the General Government out of the State." The committee, Grundy stated, would be "satisfied with the smallest modicum of federal power which shall secure a certain execution of the laws." The purpose of the bill was to prevent, not produce, violence. That South Carolina would fight he had no doubt, but her citizens should realize that it would be "perfect madness" to make war on the government. They, however, seemed to have their minds made up and were beyond the point of reasoning.

"These," Grundy exclaimed, "are no blustering men—they are brave, and will fight; and my only wish is, that the Government shall be prepared with the necessary means to prevent a prostration of the laws."

In view of the earlier stand taken by him on the question of nullification, it seems that Grundy would have evaded a discussion on that topic and limited himself to a defense of the Administration policy. But as he had set out to redeem himself, he attempted to reconcile his position in 1830 with that of the present. He reiterated the substance of his resolutions, and declared the government to be wholly independent of the states. He was forced to abandon his former opposition to coercion of a state. It was a lack of that power, he reasoned, which was the weakest point in the old Confederation. The Constitution enabled the central authority to pass by the state governments and deal directly with the people. No state possessed the right to intervene for the purpose of preventing the general government from exercising its delegated powers. The citizen owed a double allegiance—one to the Federal government and the other to the state. He must obey the laws of each within its range of powers. But what if one should overstep its powers? Grundy was in a difficult position and struggling desperately to extricate himself. At one moment he proclaimed the right of the Supreme Court to pass upon the constitutionality of laws and punish offenders of a constitutional law. The next moment he refused to admit that the Court was the "final arbiter between the General and State Governments, upon a question of disputed powers." Then who was to be the final arbiter? In 1830 Grundy had maintained that such power rested with the states themselves; in 1833 he did not say.

The positions of 1830 and 1833 could not be recon-

ciled. Grundy struck the keynote when he stated that in 1830 he did not think it possible that a convention would be called in South Carolina. Upon that assumption, he had then proclaimed his views. Those views must have been received in seriousness by the nullification leaders for they abandoned Hayne's plan and struggled for two years to call a convention. Grundy attempted to explain away his statement that the government would be forced to abandon a law which was suspended by a state convention by saying he meant that Congress would be "morally" obligated to abandon the exercise of the power or seek a new grant from the states. His explanation was weak. Moral obligation had played no part in the discussion of 1830. But, on all occasions, Grundy stood firmly in opposition to carrying nullification to the point of secession.

Grundy closed his speech on the Force bill with a flourish which was obviously intended to find its way across the mountains rather than into South Carolina. "When the blood of my countrymen is flowing, when widows and orphans are making, in this unnatural conflict, I desire to be able to raise up pure and undefiled hands before my God and my country, and say, if my counsels had prevailed, this had not been so. Sir, so solicitous am I to see the present difficulty fairly adjusted, that, upon my return to the bosom of my constituents, if I could only say 'We have prevailed; justice had triumphed; the Union is safe; peace, good will, and brotherly love, reign throughout the land;' I would not exchange that luxury of feeling, that rich repast of the heart, which it would afford, for the victor's or conqueror's laurelled wreath." [29]

The Force bill and Clay's compromise tariff measure

[29] *Cong. Debates,* 22 Cong., 2 Sess., 661 ff.

received the President's signature on the same day. South Carolina rescinded her ordinance of nullification, but declared the Force bill null and void.[30] Both sides had a feeling of victory. Jackson could claim that the Union had been saved; Calhoun that the doctrine of nullification had not been abandoned. The controversy in South Carolina had been brought to a close, but it had repercussions in Tennessee.

Much of the enthusiastic approval which had been heaped upon Grundy by the Tennessee press in 1830 had given way to opposition by 1831. The change was not due to any action taken by Grundy during that period but to other forces over which he had no control. South Carolina's enthusiasm over nullification had caused Jackson to take his stand. As stood Jackson, so stood a majority of Tennessee. Was Grundy out of harmony with his Chief? That was what many Tennesseans desired to know. That was the question which his enemies as well as the friends of other senatorial candidates hastened to answer in the affirmative. The epithet of "Nullifier" began to be hurled at Grundy from all sides.

A writer in the *Republican* could not comprehend why so many persons and newspapers who were so loud in their praise of Grundy in 1830 were taking the lead in his condemnation in 1831. Could it be possible that "Mr. Grundy's seat in the senate [was] wanted for another?" The *Telegraph* thought it could recognize in the outburst of opposition a desire to set aside Grundy in order that Major Eaton might be "whitewashed by a vote of the Legislature of Tennessee."[31] But Eaton

[30] Bancroft, *Calhoun and the South Carolina Nullification Movement*, 168–71.

[31] "Justice," in Nashville *Republican*, October 8, 1831; Washington *United States Telegraph*, October 19, 1831.

was not the only aspirant. Foster probably had a greater backing than the former Secretary of War.

The *Banner* rushed to the assistance of Grundy. It had no objections to either Eaton or Foster, but it could see no good reason for turning out Senator Grundy. Foster was without experience; Eaton had resigned the seat once, therefore had no claim upon it.[32] The *Republican* and the *Register,* both of which had greeted Grundy's speech of 1830 with great enthusiasm, joined the opposition. Several of the small town newspapers did likewise, and a list of charges was preferred against Grundy.

In the first place, he was not a loyal friend of President Jackson. Had he not openly favored nullification, a doctrine which was repugnant to the President and all good citizens? Naturally he would side with his kinsman Calhoun in favor of that wicked doctrine. Further, if he had been a loyal friend of the President, he could never have remained in his seat and maintained his silence while the Senate embarrassed the President by rejecting the latter's nomination of Martin Van Buren as Minister to England. "When a logroller," declared the *Advocate,* ". . . who, in many a tight lift has carried the short end of the handspike looks on without helping—when a speech-maker says nothing, depend upon it, there is something rotten in Denmark." The editor of the Clarksville *Journal* had not read Grundy's recent speech on the tariff but was certain that nothing he said could atone for his failure to offer resistance to the rejection of Van Buren.[33] The Administration organ came to

32 Nashville *National Banner,* June 16, 1832.

33 Carthage (Tennessee) *Advocate,* quoted in *ibid.,* April 6, 1832; Clarksville (Tennessee) *Journal,* quoted in Washington *Globe,* March 26, 1832.

Grundy's rescue. It was true that Grundy had made no set speech on the Van Buren nomination; neither had many other close friends of the Administration. Grundy felt that nothing he might say would in any way affect the results. Remarks from him would have been considered as coming indirectly from the President, therefore Grundy remained silent but voted in favor of the nomination. Every friend of the Administration in Washington would testify to the "zeal and fidelity" of Grundy.[34]

A second charge against Grundy was that, in spite of his lack of loyalty to the President, he was attempting to make it appear that he was the President's choice for senator. Why had the *Globe* entered the controversy unless it was due to a frame-up between Grundy and the editor to produce the appearance of Administration support? That was what Grundy also had in mind when he used the President's frank in flooding the state with copies of his speeches. How this frank was obtained it was not exactly known, but Grundy certainly would not scruple to use the President's name in order to promote his own selfish interests.[35] Why should Grundy desire to use the President's frank? inquired the *Banner*. Did not Grundy possess the same privilege? The truth about the matter was that Jackson had been well pleased with the speeches made by Grundy and desired that the people read them. The President had acted for himself when those speeches were sent out under his frank.[36] The correctness of the explanation made by the *Banner* was later verified by Andrew J. Donelson, the President's secretary. He asserted that no documents were ever sent

[34] Washington *Globe*, March 26, June 20, 1832.
[35] Nashville *Republican*, April 1, May 14, September 28, 1832.
[36] Nashville *National Banner*, September 29, 1832.

out under the President's frank, except as authorized by the President himself.[37]

Foster openly announced his candidacy but Eaton, for some reason, hesitated. Although the earlier part of the campaign was waged between the supporters of Grundy and Foster, there was a constant demand for an announcement from Eaton. A writer in the *Register* stressed what a great value Eaton would be to the President. Nullification was as yet unsettled in South Carolina and it was "notorious" that Grundy was "the relation, friend and advocate of Mr. Calhoun." [38] But another writer in the same press thought it to be a "lowly and unwise judgment, that would pull down one long tried and faithful public servant, merely to give place to another." [39] The *Advocate* praised Eaton for his important public service, his great talents, and his honesty.[40]

While the enemy raved, the Grundy forces were not idle. Grundy the politician was in the field for reelection. He had traveled widely throughout the state, even in East Tennessee, and was a favorite of the masses of the people. On several occasions he had made his trips to and from Washington by way of East Tennessee and Virginia, rather than by way of Louisville and the Ohio River. The purpose of those circuitous trips was to contact the people. He had visited and spoken in many of the towns in that section, and had made many staunch friends. Those friends were to be of great assistance in

[37] Andrew J. Donelson to Laughlin, August 15, 1835, in Nashville *Union*, August 31, 1835.

[38] "Roane," in Knoxville *Register*, July 4, 1832; D. Buford to Jackson, September 10, 1832, in Samuel Gordon Heiskell, *Andrew Jackson and Early Tennessee History* (Nashville, 1921), III, 526.

[39] "R," in Knoxville *Register*, May 16, 1832.

[40] Carthage (Tennessee) *Advocate*, quoted in Nashville *Republican*, July 6, 1832.

the election even though the legislature was to do the electing. Since 1832 was not a legislative year, the selection of a senator could not be made until after Grundy's term expired on March 3, 1833, unless there should be a special session. That special session, however, was called for the fall of 1832, and since the public was so excited over the senatorial contest, there seemed to be little doubt but that the legislature would settle it. Meanwhile, Grundy's ability as a political manager was much in evidence.

The legislators must be "instructed" how to vote. Grundy called upon his political friends to get up "instruction" meeetings and adopt resolutions instructing the legislators, in the name of the people, how to vote in the senatorial election.[41] Meetings sprang up almost simultaneously all over the state, while the opposition made a bitter attack upon the method of instructing. A dozen citizens, it was declared, could designate themselves as a public meeting and issue instructions while the other hundreds knew nothing of it. Such an action was "perfectly delusive and contemptible."[42] The *Republican* branded it as an "unworthy means to *force* members, contrary to their known and publicly expressed sentiments, to bestow their reluctant suffrage upon . . . [Grundy]." But "management and device [were] his sole dependence; if they fail him" he would be lost.[43]

Although protesting, the opponents of Felix Grundy adopted his tactics, loading the mails with letters and getting up public meetings. But the Foster men be-

[41] Nashville *Republican*, May 18, 1832; Knoxville *Register*, May 2, 1832; Nashville *National Banner*, September 6, 18, 22, 29, 1832.

[42] "W," in Knoxville *Register*, May 2, 1832.

[43] Nashville *Republican*, June 15, October 1, 1832.

came discouraged. Their man alone could never defeat Grundy. If a third man could be brought into the contest, and so divide the votes as to keep Grundy from getting a majority, then the matter could be carried to the people in the election of a new legislature in 1833. Accordingly, they turned to Eaton who needed only a small amount of additional encouragement. As a close friend of Jackson, he would be almost certain to weaken Grundy, who was depending upon Jackson's support. Eaton was promised that if he would permit his name to be brought forward, the Foster men, after casting a few ballots for their candidate, would turn their strength to Eaton and elect him.[44] Eaton accepted the plan, and Bailie Peyton set about riding the counties, speaking and promoting Eaton meetings.[45]

Much depended upon what attitude Jackson would take in the matter. In reply to a letter from the President which must have expressed a distinct preference for Eaton, John McLemore informed Jackson that Eaton was gaining ground every day, and was certain to be elected or else there would be no choice made at the special session. It was rumored that Jackson had "*no political* prefference [*sic*] for Eaton"; they were only good friends and that politically Grundy was preferred. "I, you *know*," continued McLemore, "can contradict, this, and *will do so wherever* I meet it." But he desired that Jackson should copy the enclosed letter favoring Eaton and return it so that if necessary it could be used. Eaton himself conveniently entered the room before McLemore had completed the letter and attached a postscript to it: "Grundy is saying, that your opinions are

[44] Carroll to Jackson, December 3, 1833, in Heiskell, *Andrew Jackson and Early Tennessee History*, III, 528.

[45] Nashville *Republican*, October 1, 1832.

not correctly represented; and that he would obtain certificates to shew your political desires are for him." News had arrived from Gallatin that "the fever is up" since he had announced. Grundy's instructed men were being reinstructed.[46]

Jackson received several letters inquiring as to his preference. To one he replied that he had expressed no preference for Grundy. To another he replied that he did not interfere in state elections. To a committee he replied that it devolved upon the legislature to make its own choice. As far as he knew, Grundy had supported the Administration. But he ruined his neutrality by another statement: "All I can do or ought to do, is to bring to your view, the course of the Democracy of Newhampshire [*sic*], when they put their favorite Woodbury aside and elected Mr. Hill who had been appointed to office and rejected by the Senate, as the most pointed rebuke the[y] could give to the outrage committed by the Senate by the rejection of Mr Hill who [*sic*] they had recommended to the office to which he had been appointed." [47] In other words, while the President denied that he had any preference or would have anything to do with state politics, he, by illustration, stated to the legislature that John H. Eaton should be made a senator in defiance of the enemies of the President from whose hands Eaton had suffered an injustice. When Jackson left Washington for the Hermitage, Duff Green remarked that the Old Hero had "travelled all the way to Nashville to superintend the interests of Mr. Eaton." [48]

[46] John McLemore to Jackson, September 25, 1832, in Bassett (ed.), *Correspondence of Andrew Jackson,* IV, 476.

[47] Jackson to Buford, September 10, 1832; *id.* to E. H. Foster, June 22, 1832; *id.* to Committee, September ?, 1832, in Bassett (ed.), *Correspondence of Andrew Jackson,* IV, 473, 452, 478.

[48] Washington *United States Telegraph,* September 15, 1832.

The Tennessee legislature met in its called session, and October 5 was set as the date for electing a senator. When the date arrived, the lobby was "thronged to overflowing." So great was the interest that "the strong feelings of the crowd could not be suppressed, but were frequently manifested by audible bursts of enthusiasm at the annunciation of the results of some of the ballotings." [49] Ballot after ballot was cast until the total reached thirty and still no person had a majority. Instead of Foster's men going over to Eaton after a few ballots they stuck with him. In fact, on the thirtieth ballot, Foster was just two votes short of the number cast for him on the first. The balloting opened with Eaton fourteen, Foster twenty-four, and Grundy twenty-one. On the thirtieth ballot, Eaton had eighteen, Foster twenty-two, and Grundy twenty.[50] The general belief that Jackson preferred Eaton drew heavily upon the strength of Grundy. Since there was no chance that any candidate would get a majority, the legislature was forced to postpone the election until the next session.

Considerable regret was expressed over the failure of the legislature to elect. The election of a senator would be the main question before the people in the next election of legislators. The Constitution had never intended that the candidates of the Senate be forced to canvass the state on electioneering tours, and that the election of legislators be determined by their views on a senatorial contest.[51]

Of the charges preferred against Grundy, only the one that branded him as a nullifier had any foundation. It

[49] Nashville *National Banner,* October 6, 1832.

[50] Tennessee *House Journal,* 1832, pp. 88–89; Nashville *National Banner,* October 6, 8, 1832.

[51] Nashville *National Banner,* October 8, 1832.

was politically desirable that he remove the grounds for that charge before the next session of the legislature. Accordingly, he returned to the Senate, in the fall of 1832, with a determination to be the best of Administration men. He fought the Bank and the nullifiers, and vigorously defended the Administration against all its enemies. Some of it he did in defense of his convictions; some in defense of his seat in the Senate.[52]

In 1833 two additional charges against Grundy were added to the list. It was discovered that, during the previous year, Grundy, while standing in the Market House at Nashville, had stated that before another presidential election it would be seen whether or not Tennessee would continue to be ruled by a name. The name of course was that of Jackson. Grundy never denied making such a statement, but explained that, if he did, it must have been in a jocular manner.[53] But the enemies of

[52] John Quincy Adams' reflection upon a conversation he had with Grundy on December 26, 1833, gives a good insight into Grundy's motives in 1832. Adams had visited the Senate and heard Clay severely censure Jackson. "As I was about leaving the Senate-chamber . . . ," wrote Adams, "I met Felix Grundy . . . and said to him I suppose we should hear from him next week.

"He said, 'No; not upon this subject.' 'But,' said I, 'you must answer this.' 'Not I,' said he. 'I have had enough of that to do last year, and mean to give myself a holiday now.'

"I said perhaps it was not quite so important that he should give proof of zealous patriotism now as it was last winter.

"He laughed, and said, no; it was of no consequence at all. He knew my allusion was to his re-election as Senator from Tennessee—which he succeeded in effecting in spite of Jackson's interference to supplant him by John H. Eaton. . . . His turn now goes two years beyond that of Jackson himself; and he says he thinks he may take his ease for two or three years." Charles Francis Adams (ed.), *Memoirs of John Quincy Adams* (Philadelphia, 1876), IX, 60.

[53] Grundy frequently made joking remarks. During the same year he made a bitter enemy of Charles Biddle by a similar remark. Biddle had been appointed a judge in Florida and Grundy had voted for him.

Grundy professed grave concern. Certainly Grundy had called into question his fidelity to the President and his fitness as a senator. No man who would weaken the influence of Jackson could be his friend.[54] "Well," sarcastically replied the *Telegraph,* ". . . Grundy must be a bold, courageous, daring, desperate man to venture such a thing in so loyal a State! And to cap the climax, 'It calls into question his fidelity to the President'!! How horrible! What unheard of imprudence on the part of the Tennessean! . . . He ought to be banished from the State as unworthy to breathe the pure air of Tennessee." [55]

No wonder, declared the opposition, that Grundy had been able to build up a political machine in East Tennessee. Had he not made a practice of going through that section on his way to and from Washington and making the government pay for the extra mileage? Grundy immediately protested against such an accusation. He admitted having often traveled a circuitous route to and from Washington, but never had he collected a penny for the extra mileage. He had always been paid according to the "most usual route" and not the route actually traveled.[56]

The candidates for election to the legislature in 1833 ran on the Foster or Grundy platforms. It seems that no

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When questioned about being a good Administration man, Grundy replied in a jocular manner that he had voted to approve *all* of the President's appointments even to that of Biddle. The latter became furious; was instrumental in getting Eaton out as Grundy's opponent; published a pamphlet in opposition to Grundy; and lobbied with the legislators for his defeat. Charles Biddle, *Senator Grundy's Political Conduct Reviewed* (Nashville, 1832).

[54] Nashville *Republican,* July 12, 1833.

[55] Washington *United States Telegraph,* July 26, 1833.

[56] Grundy to Sam Turney, n.d., in Nashville *National Banner,* September 27, 1833.

distinction was made between Grundy and Eaton men. The result again hinged upon what position the President would take, and the friends of Grundy felt that his record demanded Executive sanction. Grundy was of the same opinion and wrote Jackson on May 6, 1833, asking for statements on the following points: (1) Was he intimately acquainted with Grundy's conduct on the question of nullification and secession? (2) Had any member of Congress "labored with more zeal and assiduity to put down the doctrine of nullification and secession?" (3) Had he not given his whole energy to the defense of the Administration in all matters? [57] Grundy asked for permission to use the reply if necessary.

Jackson reluctantly replied. He would state that Grundy's conduct in the last session with regard to nullification was "highly useful and energetic," and that he had supported the Administration with zeal. But he would have nothing to do with the election.[58] If Jackson had consistently maintained a policy of noninterference in state elections, his cool reply to Grundy would have been justified. However, since such was not the case, fair judgment would award to Grundy more support than he received from the President.

When the new legislature convened in the fall of 1833, a fourth candidate—John Bell—was brought forward. The purpose back of that step is obscure. Bell was no close friend of either Jackson or Grundy. What support he might receive would likely be drawn from Foster. But his nomination had practically no effect upon the election since he never received more than two votes on any ballot. It was rumored that Eaton desired to have

[57] *Id.* to Jackson, May 6, 1833, in Heiskell, *Andrew Jackson and Early Tennessee History*, III 527; *Niles' Weekly Register*, XLIV (1833), 383.

[58] Jackson to Grundy, May 19, 1833, in Jackson Papers.

his name withdrawn; hence much of his strength went over to Grundy. The latter, after twenty-five ballots, received thirty-three votes and the election.[59]

Throughout that long political struggle Grundy undoubtedly stood well with the people. William Carroll thought Grundy's election was due to the latter's good management and the strong hold he had upon the good opinion of the great body of the people. He traveled much over the state, was "mild and social in his intercourse," and made a strong impression wherever he went. Grundy was sure to hold a commanding influence within the state during the next six years. Carroll advised Van Buren to cultivate Grundy if he desired to increase his strength in Tennessee.[60] But Grundy's opponents, under the leadership of his old political enemy, Miller, threatened to attempt to have the Senate refuse him his seat.[61]

[59] Tennessee *House Journal*, 1833, pp. 77–94; Washington *United States Telegraph*, October 22, 1833.

[60] Carroll to Van Buren, November 11, 1833, in Martin Van Buren Papers (Division of Manuscripts, Library of Congress).

[61] *Niles' Weekly Register*, XLV (1833), 210.

Chapter XI

AN OPPONENT OF THE BANK

IN 1814 Felix Grundy had favored the establishment of a national bank, and introduced a resolution in Congress calling for an investigation into the propriety of establishing such an institution. He expressed himself as having always been in favor of a bank, and wished to see one established as a national project. He was made chairman of a committee appointed in accordance with his motion, but the committee was so hopelessly divided in its views that it did not present a bank bill to the House. Grundy's plan was therefore never developed. It is clear, however, that he wished the bank to be located in the District of Columbia, and that he "entertained no Constitutional scruples" about such an institution.[1]

Tennessee chartered the Nashville Bank, the first in the state, in 1807. When Congress failed to recharter the Bank of the United States in 1811, the Tennessee legislature became alarmed for fear there would no longer be a sufficient amount of sound circulating medium. As a result, the State Bank of Tennessee at Knoxville was chartered. With the close of the war and the expansion of business, there was a cry for still more banks, and in

[1] *Annals of Congress*, 13 Cong., 1 Sess., 1942–45.

the years 1815 and 1817 no fewer than twelve additional banks were established.[2] Following the chartering of the Second Bank of the United States in 1816, there arose a demand for the establishment of a branch of that institution in Tennessee. Such a step was bitterly opposed by the state bankers for fear of the damage it might do to their institutions. To prevent such action, the legislature was induced, in 1817, to pass a law levying an annual tax of $50,000 on banks established in the state but not chartered by it.[3]

The state advocates of the National Bank, under the leadership of Grundy, attempted to secure a branch in spite of the tax. A public meeting was called at the Davidson County courthouse on January 31, 1818, with the representative from several counties in attendance. Grundy explained the purpose of the meeting. He pointed out the benefits that the people of Tennessee could expect from the establishment of a branch of the Bank, and then offered three resolutions which were almost unanimously adopted: (1) The law passed by the legislature placing a tax on banks not chartered by the state while exempting those so chartered was both *"impolitic* and *unconstitutional."* (2) The establishment of a branch of the United States Bank "would be beneficial to the stockholders, acceptable to the people, useful in its operations and greatly conducive to the prosperity and best interests of Tennessee." (3) A committee should be appointed to petition the president and directors of the Bank for the establishment of such a branch. Grundy was made chairman of the committee which was ap-

[2] Phelan, *History of Tennessee,* 258–59. The additional banks were located at Fayetteville, Jonesboro, Franklin, Gallatin, Carthage, Rogersville, Kingston, Columbia, Maryville, Shelbyville, Murfreesboro, and Nashville.

[3] Tennessee *Public Acts,* 1817, p. 139.

pointed in accordance with the third resolution.[4]

He immediately wrote the president of the Bank at Philadelphia and explained that the act passed by the Tennessee legislature had resulted from selfishness on the part of certain men. The illiberal and partial views of such men should not be considered when the interests of the state were at stake. He submitted a list of fifteen names, including seven merchants, from whom he hoped the directors would pick a local board of not fewer than thirteen, since the large number would tend to "keep down that spirit of opposition which has hitherto manifest itself." Grundy had no fear of any attempt to enforce the tax law. If such an attempt should be made, it would be met by effective resistance.[5] But the directors of the Bank of the United States, fearing both the Tennessee law and the hostility which had been shown toward the Bank in that state, declined to take the step.

When the crash came in 1819, Grundy turned his attention to inflation and sponsored the "Loan Office."[6] Jackson was out of harmony with that plan and violently attacked Grundy and all others who were connected with the project. During the panic all Tennessee banks with the exception of the State Bank of Tennessee at Knoxville suspended specie payment and did not resume until 1826. Later the $50,000 tax law was repealed, and a branch of the Bank of the United States was established in Nashville.

Jackson's attitude on the question of the Bank was not known at the time he took office. It has been said that the preliminary draft of his inaugural address con-

[4] Nashville *Whig and Tennessee Advertiser*, February 7, 1818.

[5] Grundy to William Jones, February 14, 1818, in Nancy Scott, *A Memoir of Hugh Lawson White* (Philadelphia, 1856), 21–22.

[6] See Chap. VIII.

tained a declaration against the Bank, but that the clause was stricken out before the time of delivery.[7] Soon after his inauguration the President requested Grundy to submit his ideas on the question of a bank. "On the subject of the National Bank, you have in view," replied Grundy, "I admire the project and beleive [*sic*], that the president of U States, who shall accomplish it, will have atcheived [*sic*] more for his Country, than has been effected by any act of Legislation, since the foundation of the Government. I will furnish as early as I can my views at large on that subject agreeably to your request." [8] For some reason, Grundy delayed the expression of his views for five months. When he did speak, he submitted a plan for a national bank, the basis of which should be the revenue of the United States. He wished a central bank located in Philadelphia with a branch in each state. Congress, rather than the president, was to select the directors of the central bank. The appointment of the directors of the branch banks gave Grundy some worry. To permit their selection by the directors of the Philadelphia bank he feared would be too great a concentration of power. If they were appointed by Congress it might result in the destruction of "every thing like accountability." Appointment by the state legislatures would be very "unstatesmanlike." The United States money deposited in the branches would then be under the management of the states which would have power to withhold the "very means necessary to sustain" the government if they should at any time desire to do so. As the least evil of all, Grundy proposed that the congressional delega-

[7] Bassett, *Life of Andrew Jackson,* I, 592.

[8] Grundy to Jackson, May 22, 1829, in Bassett (ed.), *Correspondence of Andrew Jackson,* IV, 37.

tion of each state appoint the directors of the branch within the state.

One half of the capital was to be turned over to the branches in proportion to the states' representation in Congress. Such profits as might result from the business of the branch banks should be applied to internal improvement within the states. But in no case should the profits from the bank in any state be spent within the boundaries of another state. Neither should any money be spent on internal improvements within a state without its previous consent. The sovereignty and ownership of all projects so completed should rest in the state. The other half of the capital, after allowing a sufficient amount for the central bank, should be distributed among special branches located in the principal commercial cities. The directors of the special branches were to be appointed by the directors of the central bank.[9]

Grundy's plan, as well as whatever plan Jackson had in mind, was soon lost in the struggle to destroy the existing Bank of the United States. The charter of the Bank was not to expire until 1836, but the position that Jackson would take on the recharter was causing the Bank men much concern. He had already intimated an opposition to the institution in his message to Congress. With the hope of making an issue of the question on the eve of the election, Clay introduced a recharter bill in 1832. It passed both houses of Congress; but, as was expected, Jackson vetoed it. Contrary to the belief of the Bank men, the veto did not weaken the President's popularity.[10]

[9] *Id.* to *id.*, October 22, 1829, *ibid.*, 83.

[10] Bowers, *Party Battles of the Jackson Period*, 214 ff.; Jackson to Grundy, August 20, 1832, in *American Historical Magazine*, V (1900), 136.

Although Grundy did not participate in the debate on the bill to recharter, he supported Jackson. Had the issue not been forced in 1832, there is some question as to what stand Grundy would have taken. The Bank representative in Washington wrote that at that time Grundy would be hostile but if the recharter were postponed he would strongly support it.[11] While Jackson was debating what should be done about rechartering the Bank, a public meeting was held in Nashville to express sentiment on the question. The Senate was in recess at the time and Grundy was in Nashville. He appeared before the meeting and persuaded those present that it would be inexpedient to express any opinion at all on the question at that time.[12] In other words, Grundy desired that the people withhold their comments until the President had spoken. But when the Bank supporters made the question of recharter a political issue, it completely destroyed Grundy's friendship for the institution.

Jackson, considering his overwhelming victory in 1832 as a vote of confidence and, convinced that the government deposits in the Bank were not safe, began the preparation of his plan for their removal. After reorganizing his cabinet to secure a Secretary of Treasury who would carry out his plan, Jackson gave the order during the congressional recess of 1833 to cease depositing government funds in the Bank of the United States. The Bank retaliated by making the panic more severe through the rapid curtailment of its business. When Congress again convened, it was overwhelmed with petitions praying relief from the distress which had befallen

11 Thomas Cadwalader to Nicholas Biddle, December 21, 25, 1831, in Reginald C. McGrane (ed.), *The Correspondence of Nicholas Biddle Dealing With National Affairs, 1807–1844* (Boston, 1919), 147–50, 155–57.

12 *National Banner and Nashville Whig*, October 5, 1831.

the country. Another group of petitions praised the actions taken by Jackson.

On December 11, 1833, Clay introduced a resolution calling upon the President to verify the authenticity of a paper said "to have been read by him to the heads of the several departments, relating to the deposites . . . and alleged to have been published by his authority." If the published document were authentic then he was requested to furnish the Senate with a copy.[13] Forsyth immediately demanded an explanation as to the purpose of the call. Clay replied that it was to secure a verification or a denial of the paper which had been published by the newspapers. If such a paper had never been made public he would not have made his request. The President, it seemed, instead of requesting the opinions of his cabinet members, as the Constitution authorized, had given them his opinion, attempting to influence their judgment.[14] Grundy took no part in the discussion but voted against the resolution, which was passed by a vote of twenty-three to eighteen.

Jackson's response to the request was a polite refusal. The executive branch and the Senate were independent; the latter had no constitutional authority to require the President to give any account either of verbal or written communications with his cabinet.[15] Clay explained that he had made the request in all sincerity, and since the President refused the request, he would take it for granted that the copy of the paper which had appeared in the press was authentic. Grundy asserted that he had opposed the request since no one doubted the authenticity of the paper. He further objected because he did not believe the Senate possessed the right to make such a

[13] *Cong. Debates,* 23 Cong., 1 Sess., 30.
[14] *Ibid.* [15] *Ibid.,* 37.

call. That was also the view taken by the President, and he wished to avoid the establishment of a "precedent of a dangerous character." [16]

Clay's reply to Jackson's refusal was the introduction of a resolution censuring the President for assuming "the exercise of a power over the treasury of the United States, not granted to him by the constitution and laws, and dangerous to the liberties of the people." [17] Clay entered upon a two-day denunciation of the actions of the President and his Secretary of Treasury, picturing the consequences in a most depressing manner. "The premonitory symptoms of despotism are upon us," he exclaimed; "and if Congress do not apply an instantaneous and effective remedy, the fatal collapse will soon come on, and we shall die—ignobly die—base, mean, and abject slaves; the scorn and contempt of mankind; unpitied, unwept, unmourned!" [18] One of the longest debates in the history of the Senate had begun.

Grundy spoke on January 30, 1834. At the outset he plainly stated that, in his opinion, the President had "assumed the exercise of no power not warranted by the constitution and laws," and the deposits should not be restored to the Bank of the United States. The removal of the deposits was the action of the President. If anyone was to be either praised or censured he was the one. This the President desired, for he had made public statements in which he assumed full responsibility. In removing the deposits, Roger B. Taney had done nothing more than any loyal assistant should have done. There was no foundation for the argument that the Secretary of the Treasury was independent of the President. There could be but one will in the executive department. It was a desire to prevent discord and the

[16] *Ibid.*, 38–39. [17] *Ibid.*, 58. [18] *Ibid.*, 59 ff.

conflict of a number of wills that had prompted the framers of the Constitution to provide for a single executive. Certainly all the advantages which were expected from that provision would be lost if the assistants were permitted to control the President "in any matter falling within the constitutional and legal discretion" of the executive department. He believed there could be no one so unjust as to argue that the President should be held responsible for the conduct of persons over whom he had no control. Since the President possessed the power to dismiss all officers appointed by him, there was no reason why he could not dismiss a disobedient Secretary of the Treasury.

Once an officer was appointed, argued Grundy, the legislative branch of the government had no further control over him. The provision of the law which required a certain officer to report to Congress did not make him subject to that body. Legislative powers must end with prescribing of rules to regulate officers. Beyond that point legislative interference began.

The next question was whether or not Congress had taken any step which would prevent the President from placing government money in state banks. Prior to 1816, he explained, the Secretary of the Treasury was not restricted in allocating the funds. The charter of the new Bank, which was created in that year, designated only that government money be deposited in the Bank unless the Secretary of the Treasury should otherwise direct. Thus the matter was left completely to the Secretary, and whatever decision he should make would be final. The question of whether the deposits were safe did not have to be considered by the Secretary. If Congress had intended to limit his powers, it should have been done

when the Bank was chartered. Even the Bank itself had not accused the Secretary of overstepping his powers.

If Andrew Jackson, in removing the deposits, was a "usurper of unconstitutional and illegal powers," so were George Washington and his successors. To prove his assertion, Grundy quoted from instructions sent out by Alexander Hamilton and Albert Gallatin, as secretaries of the Treasury, in which new depositories had been designated. In those cases the Treasurer immediately made the transfer. Indeed, that was all the Treasurer could have done since he was completely under the control of the Secretary. Further, had not Secretary Crawford, during the Administration of Monroe, deposited public money in state banks to strengthen them? A part of that money had been eventually lost, but Congress had voted no censure on either Crawford or Monroe. Secretary Richard Rush, under the Adams Administration, had also distinctly declared that the Secretary had the power to remove deposits.

To those who were making a great noise over the dangers which might result from confiding the control of both the sword and the purse to the same individual, Grundy answered that Congress alone controlled the sword. Furthermore, since Congress alone could raise money it controlled the purse of the nation also. Even the money that was already in the hands of the President could be spent only as Congress directed.

Should future revenue be deposited in the Bank? Grundy admitted that if the Bank was to be rechartered, then the deposits should be restored. But if it were to die with the expiration of its present charter, there was no good reason for restoring the deposits. Such a restoration would merely serve to give the Bank renewed

strength and increase the pressure upon state banks. "If one change has impaired public confidence to the extent represented, two more changes would entirely annihilate it." The most rational mode of settling the whole matter would be first to determine what was to be done about the recharter and then decide the propriety of the restoration of the deposits. And "I," added Grundy, "am opposed to a renewal of the charter."

During the life of the charter the stockholders of the Bank had undoubtedly reaped full benefit of its provisions. They had no more claim upon the government than did any other group. The Bank, Grundy averred, had abused its privileges. In the first place, it had gone into politics under the "false pretext of self-defense." Since the Bank could have nothing to defend but its charter, its claim implied that the charter was being invaded. Grundy denied that any such invasion had been made or contemplated by the President. Jackson had not requested that the term of the charter be shortened or any of the charter rights modified. The President had merely suggested to Congress that the question of a recharter be taken under consideration at an early date, and the Bank had immediately begun a fight, not to defend the rights of its charter, but to gain new privileges in a new charter. "I ask," said Grundy, "is an institution to be continued in this country, which openly aspires to make Presidents, and direct and control the destinies of the nation?"

In the second place, Grundy maintained that the Bank had abused its charter by allowing its exchange committee to transact business which should have been transacted by the board of directors. That committee was composed of three directors appointed by the president of the Bank. Committees, he would admit, were

important as collectors of information but they should never be permitted to legislate for the whole body. Further, the government directors were excluded from participating in the management of the Bank. He could not agree with the argument that after appointment they had no further relation to the government.[19] They should serve as sentinels and inform the government when any step was being taken which would be detrimental to public welfare.

"I verily believe," concluded Grundy, "the bank must go down, or we will have in our country a great moneyed power that will rule the government; not the executive only, but every department. The true question now to be decided, is, whether the people of the United States are to be governed by the constituted authorities influenced by the public will, or by an unfeeling corporation placed entirely beyond their control." Grundy did not fear the disasters that had been threatened. "I cannot believe that the wealth, prosperity, and glory of this great nation depend upon its money-changers; they may produce inconvenience and distress for a season; but these evils must pass by, and we should submit to them patiently for a time, if there be no other way to redeem ourselves from insidious corruption and splendid slavery." [20]

The Washington correspondent of the Boston *Post* pronounced Grundy's speech a "strictly logical argument" interspersed with much wit and humor. Grundy, he declared, was "one of the ablest supporters of the

[19] Since the government's five directors were subject to removal by the President alone, and since it was provided that if the government should sell its stock it would still retain its five directors, Grundy maintained that more was expected from those than from ordinary directors.

[20] *Cong. Debates,* 23 Cong., 1 Sess., 416 ff.

administration, and the most brilliant wit in the Senate. He has all of Randolph's point, without any of his acrimony." [21] The Lancaster *Intelligencer* declared the speech to be a "masterly effort of a master mind," and the *Globe* thought his argument unanswerable.[22]

The debate dragged on until March 28, when the resolution of censure was finally put to a vote and carried twenty-six to twenty. On April 17 the President sent in his protest against the censure. The action of the Senate was pronounced contrary to both the spirit and expressed provisions of the Constitution. It was subversive of the distribution of powers and destructive of the system of checks and balances. It tended to assume for that body a degree of power which was dangerous to the people's liberties and fatal to the Constitution. After a reference to the hardships which he had suffered for his country and a denial of an ambition for power, he closed by requesting that his protest be entered upon the Journal.[23]

George Poindexter was indignant. Such a message should not be received by the Senate. He offered a resolution declaring the protest to be unauthorized by the Constitution and unwarranted by the circumstance. The President had assumed the power to interfere with the Senate, to degrade it, and even destroy its independence. The Senate could not possibly receive the protest without a surrender of powers confided to it by the Constitution. Clay desired to receive the protest and pass a censure upon it, but give it no place on the Journal. But Forsyth wished to see a copy of Clay's resolution of cen-

[21] Boston *Post*, quoted in Nashville *National Banner*, February 27, 1834.

[22] Lancaster (Pennsylvania) *Intelligencer*, quoted in Nashville *National Banner*, March 8, 1834; Washington *Globe*, February 12, 1834.

[23] *Cong. Debates*, 23 Cong., 1 Sess., 1317 ff.

sure, with the ayes and nays, a copy of the protest, and a copy of Poindexter's proposed resolution sent to the governor of each of the several states with a request that they be placed before the legislature. The legislatures, to which the senators were responsible, could then determine whether or not they had acted unjustly.[24]

Grundy again entered the fight in defense of the Administration. Never since the formation of our government, he declared, had the rejection of a presidential message been considered by the Senate. Since there was no precedent, the justification of such an act must lie in the case itself. Was the language of the President such that the Senate could take an exception? No, it was "respectful, decorous, and courteous." He would not admit that it contained unsound doctrines or principles, but even if it did that would "constitute no objection to its reception." Reception would not mean approval any more than the reception of the annual message meant approval of all its contents. It was true that no former president had ever sent such a message to the Senate, but it was equally true that none had received a vote of censure from the Senate.

Some had claimed that Clay's resolution was preparatory to a legislative act, but he had noticed the introduction of none. The resolution had not even been referred to a committee. He would say that no such legislative act was ever intended. The very language of the resolution made it retrospective and it could not have been intended to safeguard against future occurrences.

Grundy denounced the resolution of censure as "wholly accusatory and condemnatory." A judgment had been pronounced against the President by a majority of the Senate. It was true that it did not deprive him

[24] *Ibid.*, 1395 ff.

of office since the charge had not come through the House of Representatives as impeachment charges must do, but as far as twenty-six senators could go, the President stood condemned. He had been accused of certain unconstitutional and unlawful acts. His case was already adjudged without his having been accused by the only constitutional accuser, the House of Representatives. In other tribunals, he observed, the trial preceded the judgment, but the Senate by its own action of prejudging had disqualified itself from performing its constitutional power. The very resolution passed against the President was applicable to the Senate itself for it had certainly assumed powers not conferred upon it by either the Constitution or law, " 'but in derogation of both.' "

He liked Clay's idea no better than that of Poindexter. If the protest could have no place on the Journal, he could not see that it was worth receiving and censuring. If the judgment of the Senate was to be placed upon the Journal, certainly the argument of the President should find a place beside it. The purpose of the Journal was to inform the people, and they should have both sides of the question. When they had seen both sides, let them decide for themselves. The only fair thing to do, Grundy believed, was to receive the protest, enter it upon the Journal, and then answer it "in solemn form." He was willing that a committee of the best talent of the opposition draw up the answer and thus give the people full benefit of both sides of the argument. "Sir, I wish to see their skill put to this test; I wish to see them advance foot to foot; lay hold of this protest, and prove, if they can, their assertions, to the satisfaction of the American people. If they shall fail to adopt this course, I should think the conclusion in the public mind would be, that

the protest is not susceptible of a satisfactory refutation."

Grundy inquired what right those who denounced the Administration had to the new title of "Whigs" which they had adopted. Since the group had taken that name, he supposed they would infer that the friends of the Administration were "Tories." Whatever meaning the two titles had in England did not matter, for they had a distinct significance in America. He was unable to see how the opposition could use the title of "Whigs" with its American meaning. "Whigs" were American patriots. Could the one who led the last great battle of the late war be other than a true patriot? "Tories" were the opposite of "Whigs." They had done all within their power to make the late war a failure. Where were they at the present? Certainly they were not in the camp of the Hero of New Orleans and those who strongly supported the war. He considered the term "Whigs" a misnomer when it was used to cover state rights men, friends of the Bank, nullifiers, and friends of the tariff. In fact, the only thing the so-called "Whigs" had in common was opposition to Andrew Jackson.

The purpose of the whole affair was to tarnish the deserved fame and popularity of the President. But "when the party strifes of the present times shall cease, and this individual [be] out of the way of aspirants to office and public favor, and faithful and impartial history shall present him to future times, justice will be awarded to him." [25]

Grundy's speech was powerful in its support of the Administration, but speeches no longer changed votes. The editor of the Louisville *Advertiser* thought "the whole opposition writhed under the eloquence, the

[25] *Ibid.*, 1547 ff.

logic, the smooth sarcastic lash of the Tennessee Senator." The *Kentucky Commonwealth* commented that Clay and Grundy were continuing the battle which they had begun in their youth. Gray hairs had not diminished their fire and enthusiasm. Both were very talented and eloquent speakers but there was little resemblance in their manner. On the occasion of the debate on the protest, "Clay thundered forth in the vehement energy of one who feels strong in the principles which he defends, and in the support of those principles did not fear the face of mortal man. Grundy evinced the wily caution which marks the lawyer, who knows that if he gains the victory it must be done by superior stratagem, in which men are cheated of their judgment." [26]

The stern, determined Jackson was very appreciative of Grundy's efforts. "Believe me, My Dear Sir," he wrote, "with sentiments of greatest respect for your uniform and talented support for the great principles of republicanism and of gratitude for the manly and generous manner in which you have often vindicated my character against the aspersions of my enemies." [27]

As the long session drew to a close and congressmen hurried to their homes for the election of that year, the Bank faced the end of its privileged existence. The people were ready again to express themselves on the topic at the ballot box. In Tennessee, Jackson and his supporters were received with enthusiasm. The people of Rutherford County passed resolutions approving Grundy and his able and independent support of the Administration, and made plans for a public dinner in

[26] Louisville *Advertiser*, quoted in Randolph *Recorder*, June 28, 1834; Frankfort *Kentucky Commonwealth*, quoted in Randolph *Recorder*, July 5, 1834.

[27] Jackson to Grundy, n.d., in possession of Colonel Dickinson.

his honor. The dinner was not held because of Grundy's inability to attend, but Grundy addressed the citizens at the courthouse in Murfreesboro. Long before the hour of the address the room was crowded. As Grundy entered he was greeted with thundering applause. In his speech the Senator restated his hostility to the National Bank in any form since it gave one institution the power to control in a great degree the prosperity and destiny of the country. It mattered not whether the Bank was rechartered or a new one created, for the results would be the same. It would still be "the same mighty, unshorn Sampson, that would snap the chords [*sic*], that should attempt to fetter it, and in its strides for power and dominion would vanquish every adversary." If the power of such a bank should ever be united with the executive department of the government the liberties of the people would be destroyed and the days of the Republic numbered.[28]

With the expiration of its charter, the Bank of the United States secured a charter from Pennsylvania and became a state bank. Even as a state bank it was powerful and its enemies feared that some day it might again return to its favored position. The anti-Bank men of Cincinnati decided to celebrate the termination of the Bank's charter on March 4, 1836. The committee in charge of the celebration sent Grundy an invitation. He was unable to attend but in sending his regrets he declared the occasion as one deserving of great celebration. "It is favorable to liberty and the purity of our republican institutions—I rejoice, that there had been patriotism and firmness, sufficient to prevent its recharter by the General Government." Grundy also sent a note of warning. The

[28] Murfreesboro (Tennessee) *Central Monitor*, August 2, 1834, quoted in Nashville *National Banner*, August 29, 1834.

institution still existed in a different form, and if circumstances became favorable, there was little doubt but that it would again seek to become a national institution. "Vigilance, untiring vigilance," he advised, "should be exercised by every friend of liberty." [29]

Following the distribution of the government deposits among certain state banks, there occurred a great amount of speculation. Paper money flowed rapidly from the press. It was used to purchase western lands, and since the government redeposited it in the western banks, it could be used over and over for the same purpose. Public lands by the millions of acres were falling into the hands of speculators while the government in return received only a huge amount of paper money of doubtful value. If this were not checked, Jackson believed it would prove very disastrous to the country. Accordingly, he issued his celebrated Specie Circular on July 11, 1836. By its provisions, all government lands were to be paid for in specie. The bubble burst and a panic soon followed. All the banks of the country suspended specie payment. Many were insolvent, but others still possessed the ability, but not the desire, to pay.

In his message to Congress on December 5, 1837, President Van Buren called attention to the activities of the Bank of the United States of Pennsylvania. Instead of canceling its old notes it continued them in circulation.[30] That portion of the President's message was referred to the Judiciary Committee of which Grundy was chairman. On February 12 he reported that when the charter of the late Bank expired on March 4, 1836, the institution had

[29] Grundy to Moses Dawson *et al.*, February 22, 1836, in Brown, *Portrait Gallery*, 96.

[30] Richardson (ed.), *Messages and Papers of the Presidents*, III, 383–84.

Washington City, February 22nd 1836

Gentlemen—

I have received your note, inviting me to attend on the 4th of March in Cincinnati and unite with you in celebrating the termination of the existence of the U States Bank, as a national Institution— The event ought to be commemorated— It is favorable to liberty and the purity of our Republican institutions— I rejoice, that there has been patriotism and firmness, sufficient to prevent its recharter by the General Government—

This, institution, under a different form and authority still exists, and no doubt, should circumstances favorable to its views present themselves, it will again become a Federal instead of a State institution, therefore vigilance, untiring vigilance should be exercised by every friend of liberty—

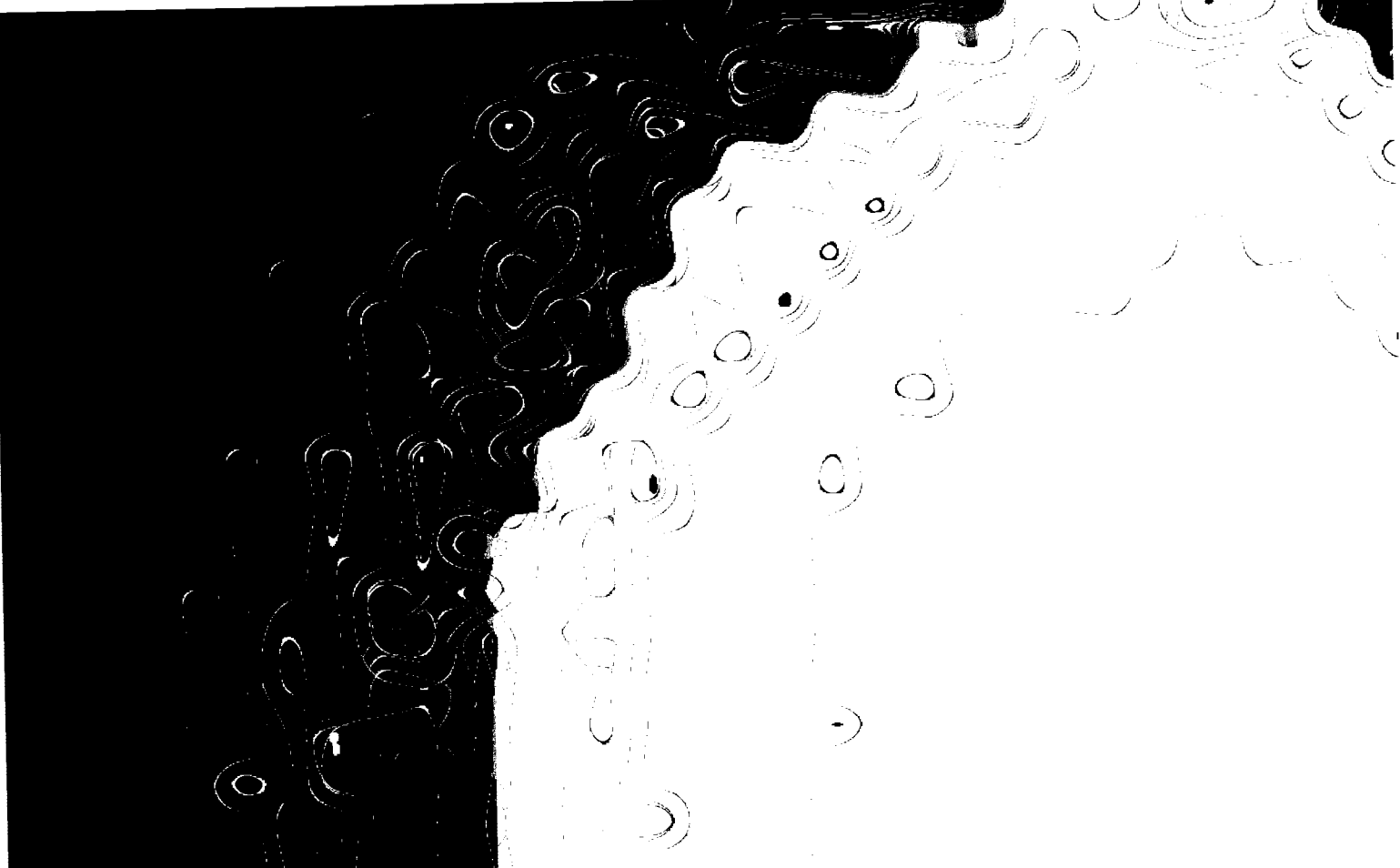
My public duties require my presence at that place, I send the following sentiments—

The Democracy of Ohio, may the Election in November next, shew it still in the Ascendant—

To Messrs
Moses Dawson
E S Harris
Isaac Bay
Wm Barry
J B Warren
P Smith
E D Ramsay
Wm S Harnett

your humble servant

John Grundy



merely transferred all of its affairs to the new Bank of Pennsylvania. The notes issued by the old Bank had been issued under the authority of Congress. Those notes had been made receivable as the equivalent of gold and silver in the payment of the revenue. The people accepted them with confidence since a large portion of the capital, which was pledged for their redemption, belonged to the government. The people further knew that the issue was limited to the duration of the charter, and that the conduct of those doing the issuing and the circulating was under the supervision of Congress. It was due to those causes that the notes of the late Bank had enjoyed such extensive credit among the people. That confidence of the people placed upon Congress the responsibility of protecting them against being misled after the causes of their confidence no longer existed.

When the charter of the old Bank expired it had on hand more than $13,000,000 in notes. Those notes should have been canceled immediately, but instead they had been turned over to the new Bank. The last report of the new institution showed that it had on hand over $15,000,000 in old notes. It was the duty of Congress to see that the people were not misled. The government was no longer a partner in the institution; therefore the old partnership notes should be canceled.[31]

According, then, to the observations made by Grundy and his committee, the old bills had been issued under the partnership and since the partnership had been dissolved, the notes should be withdrawn as they were redeemed. Instead of canceling, the new Bank was reissuing them, thereby not only using the credit of the United States fraudulently, but at the same time violating the law of Pennsylvania which forbade it to issue notes under the

[31] *Senate Documents*, 25 Cong., 2 Sess., III, No. 179.

value of $10. Consequently, the country was being flooded with five-dollar reissues of the old notes. That was not all, for the new Bank was using those reissues to purchase a huge quantity of the notes of other state banks and then dared those banks to resume specie payment. If they should attempt it, the Bank would drain their vaults in a single demand. The purpose of the whole affair seemed to have been to prolong the panic with the hope of forcing a recharter of the old Bank of the United States.[32]

Along with his report, Grundy introduced a bill to prevent the practice which he attacked. According to its provisions any Bank official who should "knowingly" reissue or place in circulation notes of the old Bank of the United States should be punished by a fine of not more than $10,000 or an imprisonment of not more than ten years or both. The circuit courts were to be given authority to grant injunctions against the reissue of such notes and to issue decrees ordering their destruction.[33]

Speaking in defense of his bill, Grundy considered that the Senate was called upon to decide two questions. In the first place, did Congress have the constitutional power to enact the provisions of the bill? In the second place, if it did have such power, would it be expedient to use it? Both of those questions he would answer in the affirmative. To show upon what facts he based his decision, he turned to his manuscript and began reading from a copy of a letter from Nicholas Biddle, the president of the new Bank, to John Quincy Adams. That letter, he declared, was not just a personal letter but was "designed

[32] See Nashville *Union*, March 3, 1838, for an attack on the policy of the Bank.

[33] *Senate Documents*, 25 Cong., 2 Sess., III, No. 179; *Cong. Globe*, 25 Cong., 2 Sess., 179.

as a manifesto to the public . . . [and] a declaration of war against the present Executive of the United States." In that letter Biddle attempted to show that the President was hostile to all state banks and was resolved to destroy them. Should the banks therefore resume specie payment? No, said Biddle, they " 'should remain exactly as they are, preparing to resume, but not yet resuming.' " They might begin by paying the small notes, but there should be no general resumption until it could be ascertained what course the government would pursue. " 'The American banks should do, in short, what the American army did at New Orleans, stand fast behind their cotton bales until the enemy has left the country.' "

Grundy vehemently assailed Biddle's statements. The substance of the letter, he declared, was that the banks should continue nonpayment of specie until the Van Buren Administration drew to a close. "In other words," he exclaimed, "this great national calamity of a suspension of specie payments is to be continued until the people of the United States shall be tortured into a change of the administrators of the Government," and until the people should cry for a bank with power not only to regulate currency but politics as well—a bank which would relieve the people of the duty of governing themselves. Until that point was reached, banks would refuse to resume specie payment. At least that was the fiat of Biddle. A moneyed corporation was defying the President and demanding his defeat, warned Grundy. It was saying to the people that if they desired specie then they must obey orders.

But that was not all. A second requirement was that the Bank of the United States must be rechartered. To such a demand Grundy would never yield. He hoped such a highhanded attempt would be met squarely by the peo-

ple. The Constitution provided for three departments of government, and any attempt by an outside power to dictate to or coerce any of those departments should always be resented.

Banks, he continued, could not legally refuse to pay specie. Their charters enjoined them to meet their honest obligations, and the only excuse for not meeting an honest debt was the lack of the ability to pay. But the banks had that ability. Biddle was passing over both legal and moral obligations "so anxious is he to rectify the politics of the country." In his letter Biddle offered three excuses for the banks' failure to meet their honest debts: " 'The Specie Circular, which forbade the receipt of any thing but gold or silver at the land offices; the mismanagement of the deposites, which scattered them to the frontiers; the clamor raised by the Executive against bank notes, which alarmed the people for their safety, and caused a run upon the banks for specie.' " But Grundy observed that other bankers had not seen fit to include two of Biddle's reasons. A House Ways and Means minority report written by the banking authority, John Sergeant, had said that the disordered financial condition was due to an attempt on the part of England to prevent the drain of specie from that country, plus a decline in the price of cotton in England. The Specie Circular was not listed as a cause even though that report was written by opponents of the Administration. Neither had the bankers of New York seen fit to agree with Biddle. The only one of his points included in their list of causes was the distribution of deposits.

What had the former President had in mind when he issued the Specie Circular? Answering his own question, Grundy explained that it was a step to prevent specie from going to England by creating a demand for it at

home. Great companies were monopolizing the best lands and paying for them in a lot of irredeemable paper. Soon the government would have had neither lands nor money. The purpose of the Specie Circular had been accomplished, he declared, and in addition the western banks had been strengthened by additional specie. If that specie had been placed in eastern banks it would have found its way to England.

Could the President prevent the so-called evil of scattering deposits? He was merely executing a law enacted by Congress. If banks would rely upon their own credit and capital only and not upon public money, it would be better for both the banks and the community. Banks, he believed, relying upon public money, had overtraded and thus produced an inability, in some cases, to meet their obligations. The so-called Executive clamor against bank notes was very indefinite and even Biddle had spoken of it in a general way only. He had cited no documents to prove his accusation.

Turning again to Biddle's letter to Adams, Grundy read from the second paragraph. The credit system and the exclusively metallic system were engaged in a death struggle. Only one could survive! Grundy emphatically denied that any such struggle existed. The President had no desire to destroy the credit system of the country. He supposed by "credit system" Biddle meant the banking system. If so, Grundy would say that he favored "honest banking, which shall not only promise, but shall actually pay and redeem its liabilities, when required, according to its engagements." That kind of banking which promised liberally but failed in the performance, he would always oppose. All his party desired was that banks should be honest, obey the laws, and meet their engagements.

The present Administration had never aimed at an

exclusive metallic currency. All it demanded, explained Grundy, was a sound metallic basis for all paper that was issued so that notes would always be redeemable. Small notes, he believed, should be abolished and their place in ordinary transactions be taken by specie.

The bill before the Senate, Grundy explained, prohibited the reissue of the notes of a corporation that had been chartered by Congress but whose charter had expired. It also gave circuit courts the authority to decree the cancellation of such notes whenever they should fall into the hands of persons charged with settling the affairs of the corporation. As far as he knew, no other corporation had made an attempt to perpetuate itself after its legal demise; therefore, the action of Congress must be without the guiding force of a precedent. Indeed, the course taken by the Bank was "so extraordinary and unprecedented in character" human foresight could never have provided against it. He had often heard of the belief that when creatures with souls passed away the souls passed into other bodies and remained on earth, but he had never heard of a creature *without a soul* passing into another state of being and remaining on the earth.

The power given Congress to coin money and regulate its value, together with the "necessary and proper" clause, would certainly give that body the power to pass the bill before it. Certainly Congress would have the power to exclude foreign coins if it thought them to be injurious to our system of coins. Under the same power, Congress could prohibit the circulation of the notes in question. Even if Congress exceeded its power when it chartered the Bank in 1816, it would still have power to destroy the paper of the defunct institution. If the government could be sued, it would be legally obligated for the payment of all unredeemed notes of the Bank in proportion

to its stock. Since the government could not be sued, it was still morally obligated. One could not distinguish between bills issued before the charter expired and those after it expired; therefore, all constituted a claim against the United States should the trustees fail to redeem them. He considered it just "as much the duty of Congress to provide against the arising or creation of an unjust debt or demand against the United States, as it is to provide against the incursions of the savages or any foreign enemy." Why should not the Bank of the United States of Pennsylvania rely upon its own resources just as other banks were forced to do? If Congress continued to tolerate such action on the part of that Bank it could expect similar "arrogance" from the other eight hundred banks.

In all the writings of Biddle, Grundy had not found one word attempting to "excuse or palliate" the refusal of his Bank to comply with its engagements. Although both law and morality required it, he refused to pay. He would substitute *"his own will"* for the moral and legal codes which governed the actions of others. "If liberty and the rights of self-government are to be lost . . . I pray that we may have some choice in the kind of men by whom we shall be ruled. May we be placed under the dominion of mind. May we pay our obeisance to the majesty of genius and intellect . . . and may we never be subjected to the will of a cold, heartless, soulless, unfeeling, cent per cent moneyed power." [34]

Grundy was bitter. The legislature of Tennessee had already ordered him replaced by the Whig, Ephraim H. Foster, and had also instructed him to vote against the Sub-Treasury plan which was being advocated by Van

[34] *Cong. Globe,* 25 Cong., 2 Sess., Appendix, 299 ff.

Buren.[35] He was striking a farewell blow at Biddle and the Bank. In all probability he hoped to draw the Whig leaders into debate on the subject; at least they thought so. But they would not enter the fight and the bill passed the Senate. Different reasons were assigned for the silence of the Whigs. The *Globe* declared that Biddle's action was so indefensible "any attempt to sustain him would only expose the weakness of the cause," so the Whigs preferred to "let it go by default." Grundy's speech, it declared, was "the product of talent and patriotism." [36] The Pittsburgh *Gazette* thought Grundy was only attempting to "administer to the malignant appetite of the tenant of the Hermitage in his wrath against the Bank." The Whig press in general believed that by refusing to be drawn into debate the Whig leaders had completely foiled Grundy's plans.[37]

In a lithographed letter to many of his friends in Tennessee, the defeated Grundy called upon all good Democrats to keep up the fight. As for the Bank, the Senator commented that "he who loves the independence and free institutions of his country, more than he loves money, should still oppose a National Bank, as dangerous to public liberty." [38]

[35] See Chap. XIV. [36] Washington *Globe,* April 26, 1838.

[37] Pittsburgh *Gazette,* quoted in Nashville *Union,* May 25, 1838; Nashville *Whig,* April 23, 1838; Memphis *Enquirer,* May 1, 1838.

[38] Grundy to D. R. Gooch, January 18, 1838 (Tennessee Historical Society Collection, Box G2, No. 87).

Chapter XII

"TO THE VICTOR BELONG THE SPOILS"

"TO the victor belong the spoils," clamored the office seekers as they swarmed into Washington in March, 1829, to begin their camp on the trail of Andrew Jackson. Why not turn out all those rascals who had grown fat through years of feeding at the public trough and fill their places with those who had made Old Hickory president? Although Jackson gave ground slowly and did not immediately resort to wholesale removals, officeholders became panic stricken. They visioned extermination for all those who had dared to oppose the Old Hero and in their desperation turned to the Senate. That body must call a check upon the voracious tyrant who would brook no political opposition.

When, on February 10, 1830, Jackson placed before the Senate a list of his recess appointments which included the names of his favorite political editors, the opposition hastened to the attack. What would be more humiliating to the President and destructive to the "spoils system" in general than the rejection of these favorite appointments? But the task was not so easy as it seemed. There was no lack of evidence of hostility toward both the President and his appointees, but many senators hesitated to have their names recorded in opposition to the Old Hero. That same wave of popular

sentiment that had swept the General into office beat heavily upon those who opposed him. Thus the popularity of Andrew Jackson was sufficient to defeat the well-laid plans of the leaders of the opposition. When the session closed only six of his appointments had been definitely rejected.[1]

But during the summer of 1830, the rumors of wholesale removals continued to grow. It was charged that efficient officers were being removed for purely political reasons and replaced by persons who in many cases were incompetent. Special attention was called to conditions within the Post Office Department where it was rumored that party favorites were being rewarded with fabulous contracts while the low bidders were not even considered. The whole department, declared the opposition, was honeycombed with corruption, the extent of which the public should know.

When Congress reassembled, the indefatigable leaders of the opposition saw their opportunity. An investigation of the Post Office Department would in all probability expose both the evils of the spoils system and the corruption of the new officers. Senator John M. Clayton of Delaware took the lead and on December 14, 1830, introduced a resolution calling for the appointment of a special committee to investigate the Post Office Department.[2]

Hugh L. White of Tennessee immediately raised an

[1] Erik M. Eriksson, "The Federal Civil Service Under President Jackson," in *Mississippi Valley Historical Review*, XIII (1927), 525. Grundy, in a letter to Ninian Edwards, May 8, 1830, expressed a belief that Jackson's popularity was of such a nature that even though "his Ministers and his Congress" might become unpopular, "his hold on the affections of the people [would] not be weakened." Ninian W. Edwards, *History of Illinois and Life and Times of Ninian Edwards* (Springfield, 1870), 515.

[2] *Cong. Debates*, 21 Cong., 2 Sess., 4.

objection to the appointment of a special committee. He could see no reason why the investigation could not be made by the Committee on Post Offices and Post Roads. Clayton replied that the investigation was an urgent one, and since the session would be short and the Post Office Committee had so much work to do, a special committee was necessary. John Holmes of Maine joined Clayton. He had been informed that a "new bureau for removals and appointments had been established in the Post Office Department; a bureau, which, for brevity, might be called the bureau of proscription." Grundy entered the argument. He informed the Senate that the Post Office Committee had practically nothing to do. It was immaterial to him what committee handled the investigation for he was not afraid of the proposed scrutiny. He was no "fonder of labor" than anyone else, but if the Senate saw fit to refer the resolution to the Post Office Committee, he, as chairman, was ready to undertake the investigation. James Noble of Indiana called for a thorough cleaning of the "Augean stable," for it was widely rumored that those who were "in the habit of dancing attendance" to the Administration were the successful ones when the contracts were let.[3]

The purpose of the resolution was clearly an inquiry into the extent of executive patronage with the hope and belief that the conditions within the Post Office Department would reveal such patronage in the most corrupt manner. The putrescent state might not be truly revealed if examined by the Post Office Committee with Grundy as chairman and a majority of its members favorable to the Administration. Although the Administration offered no opposition to an investigation, a committee appointed by the chair was likely to be much

[3] *Ibid.*, 4–6.

more favorable to the purpose of inquiry. But the Clayton resolution passed and the committee appointed was composed of Clayton, Grundy, Holmes, Levi Woodbury, and William Hendricks.[4]

The investigation got off to a slow start. Since the original resolution did not give the committee authority to call for such persons and papers as were necessary to the investigation, it was necessary to make a special request for that authority. Then, before the inquiry had gone very far, a difference in purpose among the members necessitated an understanding. Abraham Bradley, the former First Assistant Postmaster General, was called before the committee. In questioning him, Holmes inquired as to the cause for his dismissal. Apparently he intended to turn the inquiry into a parade of dismissed officers who would present woeful tales of injustice. Grundy immediately objected to this course, and Woodbury supported him.[5]

On February 3, 1831, Grundy reported to the Senate that the committee held different views in accepting the testimony of persons dismissed from office in the Post Office Department. He was unwilling to submit to the course pursued by Holmes until he had been instructed by the Senate. Should that body decide in favor of Holmes, Grundy would follow the instructions "diligently and faithfully," but not cheerfully. He pointed out that the Senate during the last session had accepted the policy of presidential removal of officers without assigning a cause, and he had supposed that question settled. It would be a violation of the expressed opinion of the Senate to call those persons before the committee and question them as to the causes for their removal. If the causes were to be investigated, the person who did

[4] *Ibid.*, 8. [5] *Ibid.*, 86.

the removing should be the one questioned. He had no fear that an inquiry would reveal improper conduct on the part of the Postmaster General or any other official, but he considered the "course of proceeding highly improper, and therefore asked the Senate to arrest it by the adoption of the resolution" which he was about to submit. His resolution stated that the calling of removed officers before the committee for the purpose of testifying as to the causes of their removal was unauthorized.[6]

Clayton, in opposition to the resolution, charged that the Post Office Department dreaded an inquiry, and warned that friends of the department need not think that by "suppressing this investigation, either directly or indirectly, they can escape the consequences which invariably flow from attempts to conceal the true state of their affairs from an intelligent public." [7] Holmes declared that any man who had so prostituted the office placed in his care as to make party fidelity a prerequisite for appointments or contracts had gone too far. If the Postmaster General was guilty of such "contemptible persecutions," he should be exposed.[8]

In reply to Holmes, Grundy proposed to give the Senate a "true account of the Post Office Department, so far as . . . necessary to a right understanding of the conduct of its present presiding officer." He admitted that $150,000 more had been spent than over any other period of equal length. If that fact stood unsupported it might be entitled to a consideration, but he proposed to show that the increase in expenditures had been made in the promotion of services to the country. Mails that formerly had run once or twice a week had been made daily; horse routes had been changed to stage routes;

[6] *Ibid.*, 86–87. [7] *Ibid.*, 87–93. [8] *Ibid.*, 99.

facilities had been extended to "every newly created seat of justice in the Union." The increase in expenditures had also been accompanied by an increase in revenue. That fact, he believed, should cause the gentlemen of the opposition to be less severe in their censure.

During the first half year in which contracts made by Postmaster General William T. Barry had been in force, there was an actual saving over the previous half year. Grundy, however, did not intend that as a censure of the former Postmaster General, whom he considered to be an upright officer. As for Barry, he had always considered him a man of talents, but he now "perceive[d] him to be the practical man—the able man of business —capable of grasping, with ease, the vast system, and comprehending the intricate machinery of this department, and of directing its energies to the greatest benefit to the country."

As to the removal of officers, Grundy declared that out of about eighty-five hundred postmasters in the country, the present Administration had removed some five hundred. It would have to be admitted that there were many just causes for removal. "If a postmaster should commit any depredation on the mail, he surely ought to be removed, although the gentleman from Maine [Holmes] should exclaim 'proscription.' Should a postmaster violate the secrecy of correspondence, which some men have done, the Postmaster General ought not to be deterred from removing him by the cry of 'proscription.' " The same should apply to those who were delinquent in accounts and reports, were violating the franking privilege, or were guilty of other forms of misconduct. But to all these there was the same cry of proscription. With all those just causes for removal, he wondered

whether there were not other officers among the remaining eight thousand who should be removed. No matter how many removals were made, the Senate had no legal or constitutional power to intervene since the authority to appoint and remove was vested in the Postmaster General. The threat of removal, he contended, had resulted in a reduction of delinquencies and a more diligent performance of duty. "When I see such effects produced, I shall not be dismayed by the term 'proscription,' for my country profits, though the incumbent lose his place."

The gentleman from Maine had stated that eight out of the thirty-one postmasters in his home county had favored the election of Adams, and that seven of the eight had already been removed. Grundy felt that such removals must have been pleasing to the people of that county since they had recently cast a majority of their votes for the Jackson candidates for Congress, the Senate, and the state legislature. The Senator from Maine had also charged that the "voracious Postmaster General" had, in New Hampshire, "devoured six full blooded Yankees at a single meal." Holmes interrupted to the effect that he had not said six but twenty-five. "This shows most strikingly the difference between a man of imagination and one who deals in sober realities and facts," replied Grundy. "I had been lashing up my poor imagination in pursuit of the gentleman from Maine, and could scarcely arrive at six, when he with ease (such is the power of his fancy) can reach twenty-five. Twenty-five full blooded Yankees have then been devoured by the Postmaster General at a single meal. If this is to be taken literally, all I can say is, that he is a man of bad taste and strong stomach, for methinks I sometimes see

one the very sight of whom is enough for me.[9] If this expression is to be taken figuratively, and the gentleman only means that the Postmaster General had put them aside, and removed them a distance from him, as unfit to be associated with him in the administration of his department, then he may have acted in good taste." [10]

The resolution had almost been lost sight of in the debate which took place, but on February 11, 1831, Livingston proposed and Grundy accepted a modification. The Livingston amendment provided that the committee was "not authorized to make inquiry into the rea-

[9] Holmes and Grundy had once been good Republicans together in the war Congress, but Holmes had become a strong opponent of Jackson. While debating the Foot Resolution in 1830, Holmes had referred to the old relationship between himself and Grundy and expressed great regret that the latter had fallen so low as to become a supporter of the Jackson Administration. Grundy replied, "The Senate will excuse me for saying a few words in relation to the partnership made up by the Boston parson, during the last war, and now added to by the gentleman from Maine, which makes it to consist of James Madison, Felix Grundy, His Satanic Majesty, and John Holmes.

". . . I was honored too much when my name was inserted in the title of the firm. I never had, nor have I now, capital or capacity for business sufficient to entitle me to such distinction; and, therefore, in the new arrangement about to be made, my name will not be inserted, either in the title of the firm or upon the sign board. Mr. Madison has become old and rich, for an honest and well earned fame is a politician's wealth; he has retired from business, and Andrew Jackson has taken his place; and business will, hereafter, be conducted under the name and style of Andrew Jackson and company. Of this firm I will be an humble and unnamed partner. The gentleman from Maine will not assist in conducting the business of this firm, and the third person named has a violent antipathy to it. Therefore, the best thing that can be done is, to dissolve the partnership, and let the two characters last named establish a new firm, under the name and style—. [Meaning the Devil and John Holmes.] In making this division, great reliance is placed in the many excellent qualities and superlative virtues of the gentleman from Maine, which will enable him to keep the senior member of his firm in order, should he prove refractory." *Ibid.*, 1 Sess., 219.

[10] *Ibid.*, 2 Sess., 109.

sons which have induced the Postmaster General to make any removals of his deputies." The Senate passed the amendment on February 15 by a vote of twenty-four to twenty-one,[11] and thus tied the hands of the committee of inquiry. If persons who had been removed from office could not be questioned as to the causes for removal, then the evils of the spoils system could not be given the great publicity which had been planned. The committee was forced to devote its energies to the discovery of corruption which undoubtedly existed within the Post Office Department.

When Clayton reported the findings of the committee, he merely placed before the Senate the documents which had been collected and requested that they be printed. He added that the committee did not desire to make any comments.[12] A partisan attack had been parried, but the evidence of corruption caused discomfort within the ranks of the Administration leaders.

A defense of the department would have been a heavy load for any person to bear, and Grundy did not attempt it. He did, however, rally to the defense of Barry, the Postmaster General. While the Clayton committee was carrying on its investigation, the Senate, on the motion of Jacob Burnett of Ohio, had voted to request the Postmaster General to submit a list of all contracts that had been made by his department, and also a list of the clerks employed and their compensations. When the report arrived it had been sent to the Post Office Committee, but was later transferred to the investigating committee. While in the hands of the latter, the committee discovered that several erasures had been made in the original copy, and in each case the name of A. Bradley

11 *Ibid.*, 197, 208.

12 *Senate Documents*, 21 Cong., 2 Sess., No. 73.

had been substituted. Bradley had served as acting Postmaster General during the few weeks between the terms of John McLean and Barry. The substitution of his name had given him credit for making several extra allowances to mail contractors. Upon learning of that fact Bradley requested the committee to investigate for itself. Holmes and Grundy were delegated to make the investigation for the department. They found that the report had originally contained the name of Barry in most of the places where the name of Bradley had been substituted, and an investigation showed that the original was correct. Who had ordered the "correction"? O. B. Brown, an assistant in the department. Why had it been done? It was all through an honest mistake! [13]

Grundy was convinced that it was either an honest mistake or else Barry had had no knowledge of it. He would never acquiesce in a denunciation of the department for making an unintentional mistake. But the opposition immediately charged that the erasures had been made in an effort to shield Barry. The Senate had already ordered the committee's report printed when it received a written request from Bradley to rescind its action unless the documents were first corrected; the order to print was rescinded. The investigation had failed in its purpose but a beginning had been made.

During the next session of Congress the Post Office Department was again brought under fire. The House passed a bill calling for the establishment of a group of new post routes and the discontinuance of others. Grundy reported the bill to the Senate on April 10, 1832. George Bibb of Kentucky immediately moved that the bill be so amended as to provide for the repeal of the act which imposed postage on newspapers. The purpose

[13] *Ibid.*, pp. 335–43.

of such an amendment was obvious. A free circulation of newspapers would counteract the advantage enjoyed by the Administration press for it was undeniable that certain favored publisher-contractors had been given permission to circulate their papers without charge.

Grundy objected. He recognized the importance of an extensive circulation of papers and the subject had been discussed in his committee, but the members were of the opinion that no action should be taken on the reduction of postage until it could be determined what the new post routes would cost. Every effort should be made to keep the expenses of the department from exceeding its income. If at a later time it was found that sufficient funds were available to bear the expense of transporting newspapers without charge, then he would favor it. This would not be the case for some time, however, since the new routes would be extended mostly into the sparsely settled western country where only a small amount of revenue could be collected. If the postage on newspapers should be removed at that time, the department would not have sufficient funds to support itself during the coming year.[14]

Clayton thought it was probably desirable that the department be self-supporting, but he wished to point out that it had not been during Barry's term. He was unable to see that the repeal of the postage on newspapers would so greatly reduce the revenue; but if it did, a portion of the surplus in the Treasury could be used to make up the difference. Clayton "held it as essentially necessary for the preservation of a free press that it should be free from the shackles of Executive influence and Executive patronage." This evil could be remedied by placing the whole press of the country "on the same

[14] *Cong. Debates*, 22 Cong., 1 Sess., 875–78.

footing." The press could not be considered as a proper subject for taxation while there was a surplus in the Treasury which should be reduced.[15]

Samuel A. Foot of Connecticut saw no reason for stopping with a reduction of the postage on newspapers. He moved that the postage on letters be also reduced to the rate charged in 1816. The rates that were being charged were war rates since they had been increased to assist in paying the war debt. The debt had been extinguished so there was no longer an excuse for war rates on postage.[16] But when Bibb objected to trying to do too much at once, Foot withdrew his motion.

Holmes observed that he had never seen Grundy work so hard to make out a plausible case, but after all, his speech was a fairly good one and for the sake of economy should be preserved for future use since it was as well suited to any other topic as to the one under discussion. He charged that Grundy, instead of discussing the reduction of postage, had entered upon a defense of the department which had shown up so badly in the recent investigation. It seemed that the Senator from Tennessee would continue to stick to Barry "even closer than a brother." [17]

After an extended debate the Senate rejected the Bibb amendment to abolish postage on newspapers, and passed the bill extending the services of the postal system. But the anti-Jackson forces refused to give up the fight. The growing popularity of the President could never be checked as long as the editor-contractors flooded the country with newspapers carrying the Jackson version of politics. Since the Senate had no control over

[15] *Ibid.*, 878 ff. The question of the surplus is more fully discussed in Chap. XIII.

[16] *Ibid.*, 883.

[17] *Ibid.*, 885 ff.

the awarding of contracts, the only hope of counteracting this influence lay in placing all newspapers on the free list. Accordingly, five days after the rejection of the Bibb amendment, Holmes introduced a separate bill providing for the repeal of postage on newspapers. The bill was sent to the Post Office Committee.

On May 19 Grundy made an unfavorable report. He entered upon a detailed discussion of figures to show that such a reduction at that time was inexpedient. If the step should be taken, the increase in volume would require extra allowances for the contractors who handled the mails. Add to the increase in allowances and the decrease in revenue the extra expense of establishing the new routes that had been authorized and the burden would be greater than the department could bear. The propriety of reducing taxes was admitted, but the committee did not consider postage on newspapers as a tax. Postage was paid for services rendered, and was paid voluntarily by those who received the service. "In all cases, the expense must be defrayed, either by a tax on the community at large, or by the persons for whom the service is performed; and the committee cannot perceive a more equitable way than for each one to pay for the service actually rendered to himself for his own benefit, and by his own order." [18] The committee, therefore, recommended an indefinite postponement of the proposal. The Senate agreed.

If the Post Office Committee would not report a bill to abolish postage on newspapers, then the thing to do was to force the desired report. That was the attitude of Peleg Sprague of Maine when, early in the following session, he offered a resolution to *instruct* the Post Office Committee to prepare and introduce a bill reducing

[18] *Senate Documents*, 22 Cong., 1 Sess., No. 147.

the rates on postage.[19] Grundy objected to the wording of the resolution. It appeared to him not as a mere resolution but one to *direct* the committee how it should act. If the resolution was so modified as to ask for an inquiry into the propriety of reducing postage, he would support it. If it should be found that a reduction could be made "without breaking in upon the Treasury Department," he would favor it. The question was not whether a reduction of postage was desirable but whether the Post Office Department was to be made dependent upon the Treasury. "If the Senate should wish to make the Post Office a charge on the treasury, so let it be; but let it be done openly, and let an annual appropriation of half a million be made for that object." He would suggest that the resolution be so amended as to call for an inquiry. Sprague replied that he had so worded his resolution for the purpose of making the Senate express its opinion on the proposed reduction. It would do no good merely to call for an inquiry, since the committee had taken no favorable action on the proposition during the recent session. As for the burden on the Treasury, he was not aware that there was any divorce between the Treasury and the Post Office Department.[20] The Senate, nevertheless, accepted Grundy's amendment.

The rumor of corruption in the Post Office Department had become so notorious that it was daily becoming more embarrassing to the Administration. Any attempt to block an investigation would only give more ground to rumor and increase the embarrassment. Jackson desired an investigation and Grundy agreed. Accordingly, the latter requested the Senate to call upon the Postmaster General for complete reports on services rendered by the department and the cost thereof. Clay was

[19] *Cong. Debates*, 22 Cong., 2 Sess., 27. [20] *Ibid.*, 27 ff.

happy to see the Senator from Tennessee take such a step, and hoped the resolution would be so worded as to prevent the Postmaster General from evading any portion of the request. If rumor were correct, there was great abuse in the department. Grundy retorted that surely the Senator from Kentucky had been in public life long enough to have learned that rumors about either a person or a department could not always be relied upon. If there were abuses in the department, he was one of those who earnestly desired to have them exposed. He was equally anxious to see the Senate and the public reserve their judgment until a thorough investigation could be made.[21]

The Post Office Committee which undertook the investigation was composed of three anti-Administration men, Thomas Ewing, Clayton, and Nehemiah R. Knight, and two favorable to the Administration, Grundy and John M. Robinson. The difference between the two groups was immediately in evidence. The majority could see no virtue in anything with which Barry was connected, and observed only the irregularities within the department. On the other hand, the minority refused to believe that Barry had willfully committed questionable deeds. Although they did not attempt to give the department a clean slate, they did stress the noteworthy increase in service. The majority secured the services of Abraham Bradley and his brother in making the inquiry. Such a step was open to severe criticism, since the Bradleys had been dismissed from the department and were naturally prejudiced against Barry and many of his assistants. To employ the services of those two disgruntled gentlemen was to invite a partisan inquiry. They could not be expected to receive a welcome

[21] *Ibid.*, 23 Cong., 1 Sess., 47.

at the office of the department, and neither could it be hoped that the assistants would co-operate with them. The majority was probably correct in its statement that the members of the department gave evidence of a coolness and the lack of desire to co-operate.

On June 9, 1834, Ewing, as spokesman for the majority, delivered to the Senate a voluminous report, the reading of which consumed an hour and a half. The majority had found the Post Office Department largely insolvent. There was a deficit of approximately $800,000; and to take care of the excess of expenditures, the Postmaster General had resorted to borrowing huge sums of money without authority by law. The expenses of the past four years had exceeded those of the previous quadrennium by more than $3,000,000. They admitted that the routes had been extended during the past four years, but that that extra expense accounted for only a small part of the deficit. The major part of the deficit was attributed to favoritism and maladministration, and numerous cases were cited as proof. The reports submitted by the Postmaster General were so confused and erroneous as to preclude the placing of any reliance in them. Huge discrepancies in contracts and extra allowances were discovered in the annual reports made to Congress by that department.

The majority had discovered that the names of contractors had been used in the securing of loans required by the department, and that the contractors had been richly rewarded for this service. The employment of newspaper men and printers as contractors and the granting of extra allowances were among those condemnatory practices that had served to "bring the patronage of the Government in conflict with the freedom of election." Extra allowances had been made to certain con-

tractors where no extra services were required; and where the service had been increased, the extra compensation was found to be "unreasonable, extravagant, and out of all proportion with the increase of service." In many cases the frequency of mails had been increased for the benefit of contractors and the Administration rather than for better service to the public. Certain newspapermen had become contractors *"with newspaper privileges."* In letting contracts, the department had substituted favoritism for fair competition. They had frequently been let at variance with the advertisements, and the compensation in many cases had been increased after contracts were made. Such corruptions had resulted in making the Post Office Department the "subject of public complaint," and demanded radical reform.[22]

Grundy, the chairman of the committee, then gave a minority report. In justice to themselves, the Post Office Department, and the country, he and General Robinson had seen fit to write such a report. They had made an intensive inquiry into the affairs of the department, but reached conclusions that differed from those of the majority. They estimated the deficit to be approximately $300,000 rather than $800,000. The difference of $500,000 was owed to the department by the various collectors of revenue; therefore, the minority refused to consider that amount as a part of the deficit. The actual deficit was attributed to three causes. In the first place, an old unpaid deficit had been carried over from the period prior to 1829. Second, the service had been greatly extended as a result of the act of 1832, and since those new routes had, for the most part, been extended into the western country, the expenses greatly exceeded

[22] *Senate Documents*, 23 Cong., 1 Sess., No. 422.

the revenue collected. Third, the burden of the mails had been greatly increased by the extension of the franking privilege to members of Congress. Through a desire to benefit all sections the Postmaster General had allowed the cost of service to exceed the income. The additional money was borrowed on the credit of the Post Office Department, not on that of the Treasury. The minority, nevertheless, believed that since the Treasury contained a surplus, there existed no good reason why a portion could not be transferred to the Post Office Department. That department had formerly paid the sum of $450,000 into the Treasury, and so a transfer would be only just.

The estimated mileage given in the two reports showed a difference of about seven million miles annually covered by the mails. The majority estimate had been made by the Bradley brothers, and since they did not have full access to all records of the department, they had made their estimates through the study of advertisements for proposals and by measuring route maps. The minority had made its estimate from the route book which had been compiled from information furnished by the postmasters. That difference in mileage accounted for the difference between the two reports as to the amount of service received per dollar.

The minority report made no attempt to whitewash the Post Office Department or even to give Barry a perfectly clean slate. It admitted that abuses existed. Those abuses were the result of the poor organization which the law gave to that department; and until the organization was changed, the abuse could not be eliminated. The Post Office Department had outgrown its small beginnings and Congress had never made legal recognition of the fact. The Postmaster General, although respon-

sible under the law for everything within his department, could not possibly supervise the detailed work. Barry had committed an error by not estimating the true financial condition of the department for himself rather than depending upon the estimates furnished by subordinates. Although he had called a halt just as soon as he learned of the true condition, that did not excuse his error. Barry "has, indeed, given to the system all the effect which he has the power of doing; but to give it permanency, so as to constitute a perpetual and effectual barrier against abuse, we are of the opinion that it should have the sanction of law; and that the officers exercising . . . powers should hold their office as in other departments, not at the pleasure of the person who may fill the place of the head of the department, but of the President and Senate."

Grundy and Robinson recommended a reorganization of the department with a greater amount of responsibility placed upon the subordinate heads. Those officers whose duty it was to audit or adjudicate accounts or to disburse money should be appointed by the President and confirmed by the Senate. A detailed report including all new or modified contracts should be made to Congress annually, and all persons employed in the department should be prohibited from becoming contractors. No bid for any contract should be opened prior to the expiration of the period of making contracts, and any failure to carry out the provisions of a contract should be reported to Congress along with a copy of the decision which the Postmaster General had made in the case.[23]

The Administration press was bitter in its denunciation of the majority report. It was charged that the op-

[23] *Ibid.*

position was attempting to divert the attention of the people from the subject of the Bank to that of the Post Office with a hope that the opposition to the recharter would be lessened. The Augusta *Age* denounced the report as "the most violent and vindicative partizan paper we have ever known to emanate from a committee of a legislative assembly." It saw in the Grundy report "a fair, open and honest exposition of the character and situation of the department." [24] The *Globe* found in the majority report "many assertions destitute of the shadow of truth" which were "covered with false coloring, and unwarrantable inference, showing a determination, without the least regard to justice, to pour censure on those whom they have selected as victims." [25]

The majority report was truly partisan, but since there was so much corruption in the department, the Administration was clearly placed on the defensive. What Grundy and Robinson hoped to do was to present their side of the picture in such a manner as to weaken the onslaught of the opposition. In any event they hoped to show that Barry was not a party to corruption. Grundy, however, was forced to abandon the position he had taken in 1831 when he declared Barry to be an "able man of business—capable of grasping with ease, the vast system, and comprehending the intricate machinery" of the department. The investigation had shown Barry to be unable to handle such an organization as the Post Office Department, but it did not show him to be corrupt. He was forced to suffer for the sins of his assistants.

The Senate ordered that the inquiry be continued

[24] Augusta (Maine) *Age*, quoted in the Nashville *National Banner and Daily Advertiser*, July 11, 1834.

[25] Washington *Globe*, June 10, 1834.

and designated the Post Office Committee as the body to carry on that work during the recess of Congress. When the Senate reconvened in December, 1834, Grundy requested that the committee be continued as it was, so that the investigation could be completed. The report, a massive document comprising 363 printed pages, was presented on January 27, 1835. Again the committee had divided along the same lines, and Grundy and Robinson made a minority report.[26] The committee was agreed, however, that the Post Office Department should be reorganized, and a bill to that effect was introduced. As amended and passed, the bill provided for the appointment of a Commissioner of the General Post Office, and for the signing of all warrants by both him and the Postmaster General. Among the other numerous changes was a provision directing the Commissioner to make financial reports to the Postmaster General and he, in turn, to make detailed reports to Congress.[27]

The long inquiry was over and Grundy rejoiced that the months of investigation had uncovered nothing that would support an accusation of corruption against the Postmaster General. He thought that the term "mismanagement" was more applicable than "corruption." Barry's great mistake was that he considered all persons innocent until found guilty, and that he failed to suspect persons of selfish motives.[28] The inefficient Barry was supplanted by Amos Kendall, who, through the abolition of corruption and the adoption of strict rules of conduct for employees, soon placed the department upon a businesslike basis.

Although the Post Office investigation was closed, the question of executive patronage, which had prompted

[26] *Senate Documents*, 23 Cong., 2 Sess., No. 86.
[27] *Cong. Debates*, 23 Cong., 2 Sess., 318 ff. [28] *Ibid.*, 340.

the inquiry, was still very much alive. On January 5, 1835, Calhoun had placed before the Senate a resolution calling for the appointment of a committee for the purpose of inquiring into the extent of executive patronage.[29] The committee appointed in accordance with the resolution was composed of Calhoun, Webster, Samuel L. Southard, William R. King, Bibb, and Benton. A glance at the committee reveals only two friends of the Administration, King and Benton.

On February 9 this Whig committee brought in a lengthy report on the question of patronage. In a tone of great distress it pictured a scene where thousands had been turned out of office without cause and their places filled with good party men. Thousands of others were waiting to get on the government payroll and were willing to perform almost any task for the party in order to get an appointment. What a tyrannical machine had been established through executive patronage! "The disease is daily becoming more aggravated and dangerous; and, if it be permitted to progress for a few years longer, with the rapidity with which it has of late advanced, it will soon pass beyond the reach of remedy. . . . The question now is not how, or where, or with whom the danger originated, but how it is to be arrested; not the cause, but the remedy; not how our institutions and liberty have been endangered, but how they are to be rescued." [30] Along with the report, a bill was presented which provided for the repeal of the four-year tenure provision of the act of 1820. It also provided that the president submit to the Senate reasons for the removal of any officer along with the nomination of his successor.

Grundy had been a consistent supporter of the Presi-

[29] *Ibid.*, 109. [30] *Senate Documents*, 23 Cong., 2 Sess., No. 108.

dent's extensive use of the power of removal, and he did not hesitate to battle in its defense. The bill before the Senate, he declared, would not serve to reduce executive patronage. It would merely allow all officers to hold their position for life unless the President chose to remove them. Under the act of 1820, the repeal of which was proposed, the terms of all appointed officers expired at the end of four years. They must be reappointed if they continued in office. In other words, they, like all elective offices, must return to those who gave them their offices and request a vote of confidence. To remove the limit on the term of officeholders would result in relieving them of all feeling of responsibility to the Senate. The bill, he believed, would give the President "a well-trained, disciplined, veteran corps, well skilled in all the arts of electioneering, made subservient to his will by the fact that he alone had the power to displace them, and that neither the Senate of the United States, nor any other body of men, could interfere in displacing them, or preventing their reappointment." Officeholders, knowing they could be removed by the President alone, would devote their time to pleasing their Chief rather than to the faithful discharge of their duties.

Probably some officers had been removed without sufficient cause, but Grundy felt sure there were others in office who should have been removed. Even Bradley had admitted that a majority of the employees of the Post Office Department had opposed Jackson. "It has somehow happened that this administration has incurred all the odium of proscription, while its enemies have enjoyed, as far as office is concerned, the greater portion of the 'spoils.' " If the real purpose of the move was to reduce patronage, he was willing to do his part, but the bill under consideration could never serve that purpose.

If patronage was to be reduced, it should be struck at the root. The trouble was with Congress rather than with the President. Reduce the huge number of unnecessary offices and the object would be accomplished.

That portion of the bill which would require the President to inform the Senate of the causes for the removal of an officer along with the nomination of his successor, was denounced as "inexpedient and unconstitutional." Grundy believed that such a provision, once in effect, would "stop the operations of this Government, and destroy all those checks designed by the constitution to be imposed upon the different departments." It would enable the Senate to prevent a removal through a refusal to confirm a successor. Thus the Senate could force the President "to retain, as his advisers and counsellors, men who would rejoice at any disaster which might befall his administration; men who would introduce discord and distraction into the executive councils, instead of harmony and concert of action."

The power of removal had been exercised by the President since the beginning of the government, Grundy argued. Any attempt by the Senate to assume a part or all of that power, which the Constitution did not confer upon it, would be a usurpation. "We should be careful not to incur the imputation of regarding the mote that is in our brother's eye, rather than the beam that is in our own." If the framers of the Constitution had intended that the Senate should share the power to remove officers they could easily have said so. As further evidence, Grundy pointed to the act of 1789 which created the first cabinet office, the Secretaryship of State. The bill had originally contained a clause stating that the President should have power to remove the Secre-

tary, but Congress, which contained many who had aided in framing the Constitution, had stricken it out as being unnecessary. The commission which was given to Thomas Jefferson, the first Secretary of State, had plainly stated that he was to hold office at the pleasure of the President.

Should the President be deprived of a free exercise of his power to remove, it would at the same time relieve him of responsibility. Under the act of 1820 the President was held responsible for the management of the executive department. Take from him the power to remove members of that department and his responsibility would end. He then could say to the Senate and the public that had his hands been free to remove unworthy men the department would have been in good condition. He could not be held responsible for officers over whom he had no control.

To the argument that the bill would produce stability in the executive department, Grundy replied that he was not certain that stability was desirable. "I protest against this ownership of office, so much insisted on by those opposed to this administration. Officers ought not to be induced to believe that they have a freehold estate in their offices; they should be taught to rely upon their own good conduct and faithfulness as the only means by which they can be continued in public employment." He was "no ardent or extravagant advocate for rotation in office" but he could see no objection to giving more people an opportunity to share some of the profits from those offices where particular skill or qualifications were not required. "If the office has been advantageous and profitable, he [the officeholder] should not enjoy the whole benefits in preference to all his contemporaries.

On the other hand, if the office has been burdensome, he ought, in proper time, to be relieved from it." [31]

Later events testified to the soundness of this reasoning, but partisan eyes and ears refused to register it in 1835. There was no hope that any argument brought forth by the friends of the Administration could deter the opposition in its plans, and the bill passed the Senate. In the House conditions were different, and the limitations upon the removal power of the Executive were rejected by the Democratic majority.

[31] *Cong. Debates,* 23 Cong., 2 Sess., 524 ff.

Chapter XIII

EVERY MAN A FREEHOLDER

THE public land question was not the least important problem before the Senate when Grundy took his seat in that body. The Federal government owned more than a billion acres of land which lay within the boundaries of the southern and western states. The government, by holding to its policy of selling no land for less than $1.25 an acre, had assumed a position which Thomas Benton described as the "dog in the manger." [1] Many who would buy lands but could not pay the minimum for them were deprived of the privilege of becoming freeholders. The states at the same time were losing revenue since they could not tax government lands.

Three distinct remedial plans were offered. The states in which the lands were located desired that the government should cede part or all of those lands to them. Practically every one of the land states had petitioned Congress for a partial or complete cession prior to 1830.[2] Such a plan, however, was not at all pleasing to most of the states that contained no public lands. They protested on the ground that such lands were property of the government and should be used for the good of all

[1] *Annals of Congress,* 18 Cong., 1 Sess., 583.

[2] Benjamin H. Hibbard, *History of the Public Land Policies* (New York, 1924), 292.

states. They believed the correct solution would be to sell the lands at the regular price and distribute the proceeds among all the states according to population. Such a plan would be a guarantee against excessive migration of eastern laborers to the West and at the same time prevent the creation of a surplus in the Treasury which would render a high tariff unnecessary. A third group, under the leadership of Benton, insisted that both the national and state treasuries should be sacrificed for the good of the settlers. The price of lands should be graduated so that the poor could become freeholders and the new states become populated.

Benton had been working on his graduation scheme for several years. Many times he had introduced such a suggestion in the Senate. In 1828 he came forward with a definite plan. The price of lands was to be so graduated that by the end of a four-year period the minimum would be twenty-five cents an acre. All lands were then to be offered for a period of one year at that price, and those remaining unsold should be ceded to the state in which they lay.[3] The power of the Atlantic seaboard states was too great for such a plan to succeed at that time.

There was another reason why the land question became a burning issue in the early part of the Jackson period. The public debt was practically extinguished and the revenue from the sale of lands, which had been originally ceded to the government to be used in the payment of its debts, would no longer be needed. A surplus would soon accumulate in the Treasury, and the disposal of such a surplus would become a problem. The Clay group would distribute it among the states,

[3] Raynor Greenleaf Wellington, *Political and Sectional Influences of the Public Lands, 1828–1842* (Cambridge, 1914), 7.

but Benton's faction would reduce it by decreasing the price on lands. With the close relationship among the land, the surplus, and the tariff questions, it was inevitable that the problem of the public lands should become a part of the party battles.

Grundy was not without experience in dealing with land questions, but his experience had been under circumstances different from those which he was about to face. He had taken a leading part in the Tennessee land legislation from 1819 to 1823. Those land questions touched upon the policy of a state only; the new problem was one between the government and the states. While a member of the legislature, Grundy had opposed the graduation of prices on state lands and the granting of pre-emption rights to occupants. He had taken such a stand, however, during a time of panic when he was badly in need of money with which to operate his new "Bank." What he would advocate in normal times and in a case that involved the national government and the states was another question.

The land question was placed before the Senate on December 29, 1829, when Foot introduced his celebrated resolution. It called for an inquiry into the propriety of limiting the sale of public lands to those that were already placed on the market, and the advisability of abolishing the office of surveyor general.[4] Benton immediately took up the fight in opposition to the resolution. Such a step, he declared, would place a severe check upon emigration to the new states and territories. The lands on sale at that time were for the most part poor and worth but a small fraction of the government price of $1.25 an acre. Few prospective settlers desired to purchase such lands at that price. Millions of acres would

[4] *Cong. Debates*, 21 Cong., 1 Sess., 3–4.

be delivered "to the dominion of wild beasts" while thousands of industrious settlers were deprived of homes which they so eagerly sought. Such a limitation of emigration was unfair to the new states who wanted settlers and to those persons in both the North and East who would like to move westward and better their condition. And what was back of it all? Manufacturers needed workers and they must be prevented from leaving the factories and going west to become freeholders.[5]

Hayne observed that no new state could become prosperous as long as practically all of its hard-earned profits were drained off to pay the government for land sold to the settlers at excessive prices. If the public domain should be maintained as a permanent source of revenue for the government, it would deprive the people of the power to control the purse of the nation. Such a course Hayne thought to be a withdrawal of one of the "greatest safeguards of liberty." He feared the effects of an immense national Treasury. He wished to see the debt paid and then the remaining lands turned over to the states in which they lay, not as a gift but at a price that would not place those states under a permanent debt to the government. "In short, our whole policy in relation to the public lands may perhaps be summed up in the declaration . . . that they ought not to be kept and retained forever as a great treasure, but that they should be administered chiefly with a view to the creation, within reasonable periods, of great and flourishing communities, to be formed into free and independent States; to be invested in due season with the control of all the lands within their respective limits." [6]

Webster maintained that the slowness in disposing of the lands was not due to the amount of lands or even

[5] *Ibid.*, 22 ff. [6] *Ibid.*, 31–35.

the price but to the lack of settlers. The surveyor had gone far in advance of the increase in population. He would not favor an increase in speculation which would follow the lowering of the price of lands or the throwing of a vast amount of the new lands upon the market. It was the duty of the government to supervise the sale and settlement of the lands. He wished to see the price of lands set low enough to promote settlement but high enough to discourage speculation.[7]

Grundy asserted that the public domain was the exclusive property of the Federal government, and that the states in which the lands were located had no claim to sovereignty over them. State independence could be maintained only by a strict reliance upon state resources. Any system that made a state dependent upon gifts from the general government, which could be withheld at any time, would destroy state independence. The will of the benefactor would become the will of the states. Reception of money or lands by a state would be pleasing to the taste but "bitterness and death would follow." No state could lay claim to any portion of the public domain. The government had obtained it before the state existed and the state had not purchased any portion of that domain. When the states originally ceded those lands to the government, it was intended that the proceeds from their sale should be used to pay the public debt. As long as the debt remained unpaid, Grundy declared that it constituted a lien upon the public domain.

In regard to the land laws, he favored a scheme of graduation which would take into consideration the value of the land and extend the right of pre-emption to occupants. Since emigration from the East to the West

[7] *Ibid.*, 35 ff.

could no more be stopped than "the torrents rushing from a thousand hills," he favored a policy that would convert those "Eastern tenants into Western freeholders." Any person who desired to settle on that vast domain should be entitled to a quarter section of land at a price not to exceed fifty cents an acre, provided he should remain and cultivate a portion of the land for a period of two years. Valuable lands would thus soon be converted into prosperous communities. Grundy would turn over the refuse lands to the states in which they were located, not upon the principle of a gift, but so that the state might devise some plan whereby they might be made useful.[8]

Before the long debate on the Foot Resolution had drawn to a close, Benton again brought in his plan for graduating the price of lands, granting preference to actual settlers, and ceding the residue to the states in which they lay.[9] Through the co-operation of the southern and western senators the bill passed the Senate but was lost in the House. Apparently the South, under the leadership of Hayne, was bargaining with the West for support on a bill to lower the tariff.

In 1832 a proposition to reduce the price of public lands or to cede them to the states in which they lay was again brought before the Senate. Since the annual proceeds from the sale of public lands had reached $3,000,000, the senators from the South and West proposed to refer the bill to Clay's Committee on Manufactures with the explanation that so large an income ought to be considered when that committee was studying tariff adjustments. The Administration senators supported the proposal with the intention of forcing Clay to take

[8] *Ibid.*, 210 ff. [9] *Ibid.*, 405.

a stand on the eve of the presidential election.[10] Clay protested against such a reference but without success; and his committee, composed of three eastern men, one Southerner, and himself,[11] took the matter under consideration. There could be little doubt as to the result of the investigation.

Clay brought in a lengthy report, citing the huge revenue which was being brought in by the sale of public lands as evidence that the price was not too high. The trouble did not lie in too little available land and too high a price but in the lack of emigrants. To reduce the price further would probably result in a great decline in the value of privately owned lands. It would also prove disastrous to the older western states since it would cause a great draining off of both money and men in favor of the new western states.

Along with the report Clay introduced a bill providing that for a period of five years 90 per cent of all of the proceeds from the sale of public land should be divided among the states. The division was to be made according to the Federal ratio and the funds were to be used to support education, internal improvements, colonization of the blacks, or for any other purpose that would conform with the policy of the state. The other 10 per cent was to be set aside for the land states.[12] The bill was undoubtedly an effort on the part of Clay to

[10] Raynor Greenleaf Wellington, "The Tariff and Public Lands from 1828 to 1833," in American Historical Association, *Annual Report*, 1911, I, 183; Clay to Francis Brooke, March 28, 1832, in Calvin Colton (ed.), *The Works of Henry Clay* (New York, 1904), IV, 330–31; Nathan Sargent, *Public Men and Events* (Philadelphia, 1875), I, 205.

[11] Philemon Dickerson of New Jersey, Clay of Kentucky, Nehemiah R. Knight of Rhode Island, Stephen Miller of South Carolina, and Horatio Seymour of Vermont.

[12] *American State Papers, Public Lands*, VI, 441–47.

conciliate both the East and West. The division of the proceeds would dispose of the surplus and leave a demand for a high tariff as a means of revenue. The 10 per cent extra for the West was a bonus to pacify that section. It was a strong bid for presidential votes in both sections.

The enemies of distribution, in hope of defeating Clay's purpose, decided to refer the bill to the Committee on Public Lands.[13] In spite of the vehement protests of Clay it was sent there by the deciding vote of the Vice-President.[14] That committee brought in a report in opposition to distribution, and proposed that the price on fresh lands be reduced to $1.00 an acre. Lands that had been on the market for five years should be offered for sale at fifty cents an acre. It proposed that all the Clay bill be stricken out except the part allowing 10 per cent to new states and that that be increased to 15 per cent. No part of the proceeds should go to the old states.[15]

Grundy objected to any attempt to pass the bill during that session. He preferred to wait until the next session in order to give the people time to express themselves. If, however, it should be pushed he would vote against the amendment which would allow 15 per cent to the new states, not because he favored the original bill, but in hope the progress of the bill would stop at that point. He was also in favor of postponing the bill to graduate the price of lands. The remaining week or two would not be sufficient for a thorough discussion of the two subjects. The reason for Grundy's position is

[13] That committee was composed of William R. King of Alabama, Powhatan Ellis of Mississippi, John Holmes of Maine, John Robinson of Illinois, and Robert Hanna of Indiana.

[14] *Cong. Debates*, 22 Cong., 1 Sess., 907.

[15] *American State Papers, Public Lands*, VI, 478–86.

clear. Tennessee would not share in the proposed 15 per cent. It would also be a step in the direction of recognizing prior claims on the part of the new states. His demand that the people first be allowed to speak was undoubtedly prompted by the fact that he must stand for re-election in the very near future.

The Senate, however, refused to postpone and Grundy voted with the majority to defeat the 15 per cent amendment, but with the minority on the amendment to strike out all that part of the bill authorizing a distribution among the states. Benton, supported by Grundy, attempted to add a reduction provision, but it too was lost. Amendments were brought forward giving 600,000 acres each to Alabama, Mississippi, Louisiana, Missouri, Illinois, and Indiana. Grundy opposed them, but in vain. He also voted against the final passage of the bill but it was carried twenty-six to eighteen.[16] The House, however, postponed action until the next session of Congress.

When Congress reconvened in December, 1832, Clay again presented his distribution bill; and the Committee on Public Lands, which took it under consideration, again voted to strike out the entire bill and substitute one providing for the reduction of the price on lands. The land question had become a distinct question of party. The National Republicans had their minds set on distribution as a means for disposing of the surplus and thereby making a high tariff mandatory in order to meet the expenses of the government. The Democratic Republicans were equally determined in favor of a reduction of the surplus through a decrease in the price of lands.

Grundy maintained that the public lands belonged

[16] *Cong. Debates*, 22 Cong., 1 Sess., 1163–74.

to neither the new nor the old states, nor a combination of them, but to the Federal government. That being true, the proceeds from the sale of lands could be applied to those objects only for which the Constitution gave the right to appropriate money. He, however, did not oppose making appropriations of lands to the various states for the purpose of internal improvements. Approval must be based upon the principle that those states had a better claim to the lands than had any other part of the country. Such appropriations should be considered merely as a recognition of the importance of improving the country and thereby adding value to the remaining lands.

The title to the public domain had been obtained as a result of a feeling that the common army should not be forced to fight to defend the extensive possessions of a few states. Those states, at the request of Congress, relinquished their titles to the western lands in order "to promote the public credit, and to provide a common fund to meet the various engagements which the prosecution of the war necessarily created." That Revolutionary debt had been discharged, but the debt in pensions to officers and soldiers still remained. Until those obligations were fully met, he declared the lands could be applied to no other purpose. Since funds from other sources had been used in discharging the public debt, they should be repaid into the Treasury as fast as the pledged revenue from public lands should accumulate.

The bill before the Senate called for a distribution of public money among the states. Grundy saw in such a measure an attempt to defeat the policy of the government by giving public funds to the states for internal improvements, which it was argued could not be made

directly by the government. Knowing that the President would not sanction local projects of internal improvements, the sponsors of the bill were endeavoring to "evade the settled policy of the present administration" which could not be "overcome by direct action."

A second object of the bill was to provide a fund for education, but since the government could not constitutionally establish a system of education within the states, he was unable to see how money could constitutionally be given to states for that purpose.

As for appropriating money to provide for the transfer of Negroes to Liberia, he thought it purely visionary. Legislatures would probably never spend the money for that purpose. He further believed that if the government could not use money to help the poor white man, neither could it spend it on the blacks.

Even if he believed the bill before the Senate to be constitutional in every respect, he would vote against it. It was nothing but a concealed tariff measure. The purpose was to dispose of all surplus revenue so that a high tariff would be necessary to meet the expenses of the government. If $3,000,000 from the sale of public lands should be given to the states annually, it would mean that the tariff would have to be kept at a rate sufficient to provide that additional amount to defray governmental expenses. Such a step would neither reduce the public burden nor eliminate the causes of complaint but make them permanent.

There was deception in the bill, Grundy declared. On its face it appeared as a gift to the states but in reality the people must be taxed to make up for the gift. Those who were interested in settling the western country would also find that the provisions of the bill would retard "improvement and settlement." Should the price

remain fixed, as provided by the bill, settlement would certainly be retarded as only the fertile lands would be purchased and cultivated. "The Government," affirmed Grundy, "owes it to its citizens, as a duty, to furnish all the means in its power to render them collectively and individually happy and independent." This can be done only when every man has the privilege of becoming a freeholder.

He was aware that the policy of cheap lands might result in a shifting of settlers from the old to the new sections. Such, however, he considered as desirable if a man could be happier and more prosperous in the new section. There were great benefits to be gained from building up the West. A populous West would hold in check the Indian tribes and serve as a barrier to the invasion of the Mississippi Valley by a foreign force. With those benefits in mind, he would vote to give each settler upon the public domain the right of preference to land at fifty cents an acre on the condition that he would reside upon it for five years. The last provision, he believed, would prevent fraud and speculation and would guarantee to those who needed it a home at a small cost.

"Upon a full view of the whole subject," Grundy concluded, "my reflections result in this: that the new States have no exclusive claim to these lands, and that the States, as such, taken altogether, have no other claim to them or their proceeds than they have to moneys arising from other sources of revenue; and, of course, Congress has no power to give it to the States, or to apply it to any other objects or purposes than those conferred on Congress by the constitution." [17]

Again the Clay distribution bill passed the Senate,

[17] *Ibid.*, 22 Cong., 2 Sess., 112 ff.

and as it also received favorable action in the House, it was left to the President to stem the tide. The bill did not reach him until late in the session, and it was not necessary to apply an actual veto. When Congress reconvened he sent in his reasons for the pocket veto. He feared that such a bill had a tendency toward consolidation, since the national government would become the paymaster of the states, and state officers would become mere instruments of the government. By such an act the independence of the states would greatly suffer. State legislatures would be virtually released from the duty of levying taxes and must look to Congress, who would become both the "taxgatherer and paymaster" of the states.[18]

Both Benton and Clay continued to bring forward their pet plans but to no avail. The former could never get favorable action in Congress and the latter was never able to get by the opposition in the White House. In January, 1836, Benton tried a new scheme for disposing of the surplus. He introduced a resolution calling for the application of the surplus revenue to the "general defence and permanent security of the country." The resolution also requested the President to provide an estimate of the amount needed to place the army and navy upon a "footing of strength and respectability." [19] In view of the threatened crisis with France, Benton's resolution was very appropriate.

Grundy immediately gave the plan his hearty support, but suggested that the resolution be so amended as to call for the expenditure of such a portion of the surplus as was needed rather than the entire amount. Benton agreed to the amendment. In support of the resolu-

[18] Richardson (ed.), *Messages and Papers of the Presidents*, III, 56 ff.
[19] *Cong. Debates*, 24 Cong., 1 Sess., 106.

tion Grundy observed that no better testimony of the defenseless condition of the country was needed than the fact that during the late war the British had been able to enter our capital. That event had never ceased to annoy Grundy. As no great improvement had been made since that time, there was no reason to doubt that the same thing could happen again. Failure to spend money for national defense could be excused as long as the country was burdened with the debts of two wars. But those debts had been paid and the Treasury contained about $30,000,000; therefore, an excuse no longer existed.

What was to be done with that huge surplus? Calhoun desired to see the Constitution so amended as to provide for its disposal; Clay wished to divide the proceeds from the sale of public lands among the states, and thus prevent the further accumulation of a surplus. Grundy saw no need to look for new duties or powers until Congress had fulfilled those already entrusted to it. To protect and defend the states was an important duty of Congress, and no excuse could exist for a failure to perform that duty as long as there was a surplus in the Treasury. The threatening attitude that France had assumed made it all the more important that Congress place the country in a position to defend itself.

France had agreed to pay to the citizens of the United States the sum of $5,000,000 for damages inflicted upon their commerce during the Napoleonic wars, but the French Chamber of Deputies had never voted the money with which to discharge the obligation. In fact, France was refusing to pay on the grounds that the President of the United States had insulted her by statements he had made in a message to Congress. She, therefore, would not pay until an apology should be made by

President Jackson, and she had also gone so far as to state how the apology should be worded. Grundy would never favor allowing any foreign power thus to dictate to us.

Since the controversy had begun, France had increased her armaments and placed her navy in a fighting condition. Grundy would not say that such a step was an act of hostility on the part of France, but he insisted that it placed the United States in a position that demanded counterpreparation. He did not favor immediate war with France, for he hoped she would reconsider and realize that our President had meant no insult. On the other hand, should "every reasonable expectation . . . of the fulfilment of the treaty" fail, he favored "such measures as . . . [would] be best calculated to preserve the honor, dignity, and independence" of the country. What those measures would be depended upon future events, but in any event Congress should take such portions of the accumulating surplus as were necessary to make our position secure.[20]

No great opposition to the resolution was manifested. It carried no appropriation and therefore did not weaken the surplus. There was, however, opposition to the word "surplus" before the word "revenue," and so it was stricken out. The resolution was then harmless as far as disposing of the surplus was concerned. It merely expressed a sentiment in favor of taking a stiffer tone toward France, and was passed by a unanimous vote of the Senate.[21]

Grundy had a scheme of his own. If a part of the surplus could be used to secure free use of the railroads, three purposes would be served. It would greatly improve the mail facilities, aid in national defense, and

[20] *Ibid.*, 304 ff. [21] *Ibid.*, 577.

help dispose of the surplus. Accordingly, on March 17, 1836, he introduced a resolution to instruct the Committee on the Post Office and Post Roads to inquire into the expediency of making contracts with the railroads.[22] The resolution was adopted and the committee brought in a report. Attention was called to the fact that the government possessed the unquestioned power to make contracts with individuals, corporations, or states for the transportation of the mails and troops, and that such power ought to be exercised by making contracts with railroads. There could be no constitutional objection unless it was that the contract money would be used to build railroads and thus be aiding internal improvements. That objection, however, was removed by the provision that no contract money should be given to any railroad until it was in operation. Under no condition was money to be advanced. The money when paid would be for perpetual use of the railroads; the government's only concern was to see that it was paid out in a constitutional manner. Contracts made by the government were to be protected by a lien on the property of the railroad. If any railroad ceased to operate, the government could then take over the property, not to operate it, but to sell for the lien.

The railroads, the reports showed, had developed tremendous speed and the government should take advantage of that speed in sending the mails over the country and in providing for public defense. If contracts for moving the troops should be made with the railroads, it would greatly reduce the expense of national defense, and the knowledge of our ability to transfer and concentrate troops would serve as a warning to foreign nations.

Contracts could probably be made with the railroads

[22] *Ibid.*, 847.

on very favorable terms. Many of them were in need of money to expand their lines and increase their equipment. The country also would benefit from the establishment of new lines. The Treasury was in an excellent condition to provide the payment for such services. Surplus revenue was rapidly accumulating and legitimate means for its disposal were limited. Thus used, it would be of great benefit to all. The government would be enjoying the use of the great railway system without being burdened with the expense of its upkeep and operation.

"Upon a view of the whole subject," the report concluded, "your committee are of opinion that a portion of the surplus in the treasury cannot be more profitable or usefully employed than in securing to the Government forever, the free transportation on all the principal railroads in the Union." A bill attached to the report provided that the Postmaster General receive offers from the railroads for the transportation of the mail and all persons in charge of it, troops, officers of the army and navy when traveling under orders, and all property of the United States except timber and stone. The offers must then be approved by Congress.[23]

The railroad contract proposal created quite a bit of interest outside the Senate. The press was rather free with its favorable comments. The *Globe* declared that of all the plans to reduce the surplus the railroad contract plan promised "more public utility." If carried out, it would increase the mail facilities and result in a decrease in postage; mails would be transported with more speed and safety; public expense in both peace and war would be reduced and public defense greatly improved; and the government would enjoy the free use of the

[23] *Senate Documents*, 24 Cong., 1 Sess., No. 291.

railroads and at the same time evade the question of internal improvements. "Why then should not a liberal portion of the surplus revenue be devoted to this subject? Give enough to the navy—enough to the forts—enough to the preparation of the munitions of war—and we shall have enough left for this great purpose." [24]

The *United States Gazette* pronounced it "one of the most important public measures that has been brought before Congress for many years," and commented that if the government had possessed the use of a railroad into Washington during the late war, the capital would never have fallen into the hands of the British. The Baltimore *Patriot* thought "the application of the surplus funds, now *worse than useless* in the National Treasury, in aid of these Rail Roads and in securing this important right, would be one of the very best dispositions of it that could be made." [25]

Not all, however, were favorable. One of Grundy's home town papers bitterly opposed the bill. It could see in it a great danger of paying out money for services that would never be rendered. There was no need for such a sudden pouring out of cash. Why not pay the railroads a certain amount annually for their service? The reason was clear. An annual payment would not greatly reduce the surplus and the managers, knowing the power of money, were "determined on the handling of the thirty millions . . . in the Treasury." [26] There was also the charge that Grundy had a personal axe to grind by such a bill. Amos Kendall, the new Postmaster General, would probably soon retire from office and Grundy was

[24] Washington *Globe*, March 26, 1836.

[25] Washington *United States Gazette*, quoted in Nashville *Union*, May 5, 1836; Baltimore *Patriot*, quoted in Nashville *Union*, May 5, 1836.

[26] *National Banner and Nashville Whig*, April 11, 1836.

to become his successor. The new bill would place a tremendous patronage in the hands of one man, and Grundy intended to be the man to handle it.[27]

In the Senate, the Clay group had no desire to see the Treasury depleted in such a manner. No more patronage should be turned over to the Administration. Grundy explained that the Postmaster General, in receiving offers for contracts, would be handling no patronage since the contracts must all be sanctioned by Congress. Such contracts would greatly facilitate the spread of "general information, political and commercial," and protect the citizens against speculators who "avail themselves of private expresses." He stressed the great benefits from a standpoint of national defense. Troops could be transferred with great speed, two or three days being sufficient for bringing them from the mountains to the coast. It was not probable that the government would lose the money paid out to companies since investigation as to their responsibility, the importance of the roads, and their relation to the state was to precede the making of contracts. The money would be further protected by a lien on the property, and he felt certain a buyer could be found if the government had to take over the property to satisfy the lien.[28] This proposal, although practicable, failed to receive the support of a majority.

Land sales which during the past decade had an annual average of less than $2,500,000 jumped to $14,757,600 in 1835 and to $24,877,179 in 1836. On March 1, 1836, the surplus on deposit amounted to $33,700,000 and by June 1 had increased to $41,500,000.[29] Since the

[27] Shadrach Penn to Van Buren, April 12, 1836, Van Buren Papers.

[28] *Cong. Debates*, 24 Cong., 1 Sess., 1199 ff.

[29] Edward G. Bourne, *History of the Surplus Revenue of 1837* (New York, 1885), 15–16.

government was then keeping its deposits in state banks the Administration was reaping a powerful support from those sections where money was deposited. The Whigs were conscious of the situation and believed distribution was the only way to break that support.

When Calhoun brought forward a third new proposition, all others were immediately put aside and the Clay group fell in line with the new plan. Calhoun proposed that if the surplus could not be distributed among the states it should be deposited with them in the form of a loan. The Whigs saw in the plan a possibility of evading a presidential veto. Benton and Grundy both opposed such a measure. It was distribution in disguise, for no one believed the states would ever be required to repay the loans. They further objected on the ground that it was intended to evade the policy of the government with regard to internal improvements. It would merely be giving the states the money to do what the government could not do. The bill passed, however, and in its final form provided that on January 1, 1837, all money in excess of $5,000,000 which should be in the Treasury should be deposited as loans with the states in proportion to their representation in Congress. Grundy and Benton were two of the six senators who voted against the bill.[30]

Judging by the way the surplus had been accumulating, the friends of distribution believed that by January 1, 1837, the amount to be deposited with the states would be not less than $50,000,000. But the increase was soon to be greatly checked by the Specie Circular. It has already been indicated that a great wave of speculation followed the distribution of deposits among certain state banks. Paper money had flowed freely from the

[30] *Cong. Debates*, 24 Cong., 1 Sess., 1845–46.

presses and had been used to purchase western lands. Since the government redeposited the paper in western banks, it was used again and again for the same purpose. Millions of acres of public lands were falling into the hands of speculators while the government received a huge amount of paper money of doubtful value. It was to check that evil that President Jackson issued the Specie Circular. The Circular provided that only gold or silver would be received in payment for public lands. It was to go into effect on August 15, 1836, but actual settlers were to be permitted to use paper money in the purchase of 320-acre tracts until December 15.

A decrease in land sales began immediately and by January 1, 1837, there was, after deducting the $5,000,000, less than $40,000,000 to be deposited with the states instead of the calculated $50,000,000. The deposits were to be made in four installments, but by the time three had been made the panic of 1837 had become so severe that the Treasury was empty and actually facing a deficit. Congress was forced to vote to postpone the payment of the fourth installment until January 1, 1839, but the Whigs guarded against a possible recall of deposits by taking power of recall out of the hands of the Secretary of Treasury and vesting it in Congress. The deposits had become gifts. By January 1, 1839, there was still no surplus and the fourth installment was not paid.[31]

Even though there was no longer a surplus, Grundy and Benton continued their fight for graduated prices on public lands. On April 9, 1838, a bill from the Committee on Public Lands was before the Senate. It provided for a graduation of prices, but the value of lands was to be largely determined by reference to the notes made by surveyors. Grundy moved that the bill be so

[31] Bourne, *History of the Surplus Revenue*, 29, 41.

amended as to provide that after September 30 all public lands which had been offered for sale for a period of five years at $1.25 an acre and still remained unsold, should be offered for sale at $1.00 an acre. All lands which had been on the market for ten years and still remained unsold, should be offered at $1.00 for a period of one year, and after that be reduced to seventy-five cents. Those lands which had remained unsold after fifteen years should be offered at $1.00 for a period of one year. After that time the price should be reduced to seventy-five cents for a period of one year, and then to fifty cents.[32]

In defense of his amendment Grundy argued that time was a fair test by which the value of lands could be determined. Those lands remaining unsold after a long period were inferior and not worth the minimum price which had been set by the government. Notes made by surveyors could not be relied upon in determining the value of lands. He feared that some surveyors made intentional misrepresentations in their notes in order that they might serve their own interests. The best lands, he believed, had already been sold at the minimum, and so it was a sound policy to reduce the price of inferior lands and thus enable the poor to possess homes at a fair price.[33] Grundy's plan was undoubtedly a step in the right direction although time alone could not be considered an accurate test of value. In addition to aiding the poor to become freeholders, it would have enabled the owners of good lands to purchase adjoining pasture and timber land.

Clay offered his usual opposition. The price on lands was not too high. He did not favor "interfering with a system which had worked" so well. Moreover, he con-

[32] *Cong. Debates*, 25 Cong., 2 Sess., 293. [33] *Ibid.*

sidered all tests of value as being "merely fallacious." [34] The Senate accepted the Grundy amendment in lieu of the bill and passed it, but the House was still adamant.

To many persons the government deposits appeared as a gift to the states. Only a few believed that repayment would ever be required. Many states began reckless spending, especially on internal improvements. Then the bounty was shut off, leaving states heavily in debt and with many improvements that produced no revenue. State bonds sold below par; and foreign bondholders, as well as many citizens of the debt-burdened states, began an agitation in favor of assumption of the state debts by the Federal government. The plan was certain to find advocates among the high tariff men in Congress. The panic was gradually subsiding, and soon a surplus would again make a threatening appearance. Such a condition would be doubly threatening since the tariff compromise would expire in 1842, and the existence of a surplus would be a strong argument against an increase in duties. To advocate such an assumption openly, however, was just a little more than the leaders could afford to do in the face of the coming presidential election. But the low tariff and antidistribution men became somewhat worried. Grundy wrote a friend that he was confident the opposition intended to attempt assumption. Already, Representative Meredith P. Gentry from Tennessee had stated that he intended to introduce such a bill in the House. He did not believe Gentry ever would have made such a statement without receiving support from other members of Congress.[35]

In 1839 Grundy returned to the Senate after serving

[34] *Ibid.*

[35] Grundy to James K. Polk, February 9, 1840, in James K. Polk Papers (Division of Manuscripts, Library of Congress).

a short period as attorney general in Van Buren's cabinet, and he and Benton decided to force a showdown on the question of assumption. On December 27 Benton introduced a resolution to the effect that there was nothing in the Constitution to authorize Congress to assume the debts of the states, and requesting Congress "to close the doors at once against all applications for such assumption." [36] Grundy moved that the resolution be referred to a select committee, and he was made chairman of that committee.

On February 5, 1840, Grundy submitted a report on the subject. It considered assumption from four angles: (1) was it just; (2) was it expedient; (3) was it constitutional; and (4) could the proceeds from the sale of public lands be applied to such a project? It pointed out that several states were not in debt and had received no benefits from the expenditures made by other states. It would therefore be unjust to require them to pay any part of the burden. Some of the states were receiving much revenue from internal improvement projects. Would it be just to make the other states share in the payment for those projects but not in the profits? The committee considered a *"distribution of debt"* only "another phrase for the *distribution of property.*"

Anything that was morally right might be considered as expedient, but things which were proved to be unjust could never be considered morally right. Assumption would take from the people the responsibility of levying taxes and place it upon the general government. If it should ever be admitted that state authorities had the right to contract debts and then shift the payment of the same to the shoulders of Congress, there would be no limit to the lack of economy or moderation on the part

[36] *Cong. Globe,* 26 Cong., 1 Sess., Appendix, 85.

of the states. Once the step was taken there would be no stopping place, and the government would soon be paying not only the debts but the current expenses of the states. "When the General Government becomes the collector of taxes, and the distributor of the proceeds, consolidation will have been accomplished. The States will lose their power, their dignity, and their independence."

The report denied that the framers of the Constitution ever intended that Congress should have authority to assume state debts. Never for one moment did those men intend that the general government should be the taxgatherer and paymaster for the states. It was to guard against similar assumption of power that the powers of Congress were enumerated. Not being satisfied with that limitation, the Constitution had been amended so as to designate specifically that all powers not delegated to Congress, nor prohibited to the states, were " 'reserved to the states respectively, or to the people.' " Congress was given power to raise money to pay the national debt, but was given no power to pay the state debts. Assumption of state debts could not be done under the pretext that it was necessary and proper, for it would be most improper to deprive the government of funds which were needed for defense. The majority of the debts had resulted from internal improvement of a local character. Since the government could not constitutionally put money into such improvements, it could not constitutionally give the states the money to pay for them.

The public lands had been originally pledged for the payment of the public debt. Since that debt had been paid the lands were still pledged to the common benefit of all the states. As it would be impossible to determine what portion of the revenue from their sale should go

to each state, the proper plan was to place the proceeds in the Treasury and thus enable the government to reduce taxes.

With the foregoing views in mind the committee submitted four resolutions: (1) Assumption of the state debts which had been contracted for local purposes would be unjust to both the states and the people. (2) Such a step would be inexpedient and "dangerous to the union of the States." (3) Assumption was not authorized by the Constitution and would be not only a violation of that document but also "utterly repugnant to all the objects and purposes for which the Federal Union was formed." (4) The setting aside of the public lands or the proceeds from their sale for the purpose of assumption "would be equally unjust, inexpedient and unconstitutional."[37]

The purpose of the resolutions was to force the opposition to take a stand one way or the other. Such a stand might prove to be embarrassing on the eve of a presidential election. Grundy wrote Polk that "we are determined to push our adversaries to the Wall and never let them off without a direct vote on the resolutions contained in the report."[38] John J. Crittenden of Kentucky attempted to sidetrack the resolutions by offering a substitute which declared that the state debts had been contracted in a manner undoubtedly constitutional and proper; therefore, the proceeds from the sale of public lands should be distributed among the states.[39] The Senate, however, refused to make the substitution. Benton offered a substitute for the fourth resolution which did not stop with the declaration that it was un-

[37] *Senate Documents,* 26 Cong., 1 Sess., No. 153.
[38] Grundy to Polk, February 9, 1840, in Polk Papers.
[39] *Cong. Globe,* 26 Cong., 1 Sess., 204–205.

constitutional to apply the proceeds from public lands to assumption, but pronounced as unconstitutional the application of any public funds for that purpose or even the giving of a promise of security that the debts would be paid.[40] Clay and Webster fought incessantly to prevent the resolutions from coming to a vote; the former by attempting an indefinite postponement and the latter by frequent motions to adjourn.[41] However, when the yeas and nays were called on the resolutions, both Clay and Webster voted in the affirmative.

The close of the first session of the Twenty-sixth Congress also closed the senatorial career of Grundy.[42] On the question of public lands he had been very consistent. He had opposed ceding the lands to the states in which they were located, but he had strongly advocated the graduation of prices in order that those states might become populated and the lands be brought within the scope of state taxation. He was also willing to see the occupants have a preference in the purchase of lands. But he would never consent to a distribution among the states of the proceeds from land sales. In his mind the surplus was inseparably linked with the tariff and internal improvements. He did not wish to maintain a surplus, but he desired to see it spent in a manner that he considered to be both constitutional and beneficial.

[40] *Ibid.*, 245.

[41] *Ibid.*, 244–45.

[42] Grundy died on December 19, 1840.

Chapter XIV

A PRESIDENTIAL ELECTION AND ITS AFTERMATH

ANDREW JACKSON had selected Martin Van Buren as his heir to the presidency and was very much vexed when he learned that Hugh Lawson White of Tennessee contemplated disputing the inheritance. White had originally been a strong Jackson man and had twice been invited to enter the cabinet as secretary of war. Grundy had also appealed to White to accept Jackson's invitation, but to no avail.[1] Later, White had strayed from the Jackson fold and had become known as an independent. In that position he had frequently joined with anti-Administration forces.[2] "Proud and sensitive," this son of the Tennessee highlands resented the President's dictatorial attitude. Scrupulously honest and characterized by serious demeanor, he chose to think for himself and abide by the dictates of his own conscience. Once an opinion was formed he clung to it even to the point of obstinacy.

Grundy, conscious that White was drifting away from the Jackson ranks, attempted to force him to a showdown in 1833. When the Senate convened in December of that

[1] Grundy to White, May 17, 1831, in Heiskell, *Andrew Jackson and Early Tennessee History*, I, 660.

[2] See debates on nullification crisis, expunging resolution, and executive patronage.

year, a plan was immediately set on foot to embarrass the new Vice-President, Van Buren. The Senate had recently refused to confirm his appointment as minister to England, and certainly did not relish the fact that the people had made him the new presiding officer over that body. Since 1828 the rules of the Senate had provided that the various standing committees should be appointed by the presiding officer; but the vice-presidents, feeling that they were really not a part of the Senate, had made a practice of absenting themselves during the first few days of the session. This gave the Senate an opportunity to select a temporary chairman who would appoint the committees. Much to the disgust of the opposition, Van Buren continued the custom. The majority had hoped that the new Vice-President would make an early appearance so that the Senate, in his presence, could vote to deprive him of his appointive power. When he failed to appear, it was decided to deprive him of the power anyway, and Senator Sprague offered a resolution to change the rules so as to return to the Senate the power to elect its own committees. White, who was made temporary chairman, refused to take any step toward the appointment of committees until the motion before the Senate should be put to a vote. He further requested that he, as chairman, be excused from voting on the motion. Such an action was pleasing to the Clay group. They knew that White had a foot in each camp and desired to keep him that way. In such a position he could be of great service to the anti-Jackson group. Accordingly, Clay moved that White be excused from voting. Grundy objected. He saw no good reason for the resolution before the Senate, but if it was to be voted upon, he did not favor excusing anyone from voting.[3] It was clearly Grundy's intention to force White

[3] *Cong. Debates,* 23 Cong., 1 Sess., 19–29.

to vote and thus take his stand either for or against the Administration. The resolution passed, but White was excused from voting and thus avoided a commitment.

Prior to 1833 Grundy had never been intimate with Van Buren although he probably never disliked him.[4] During the Jackson-Calhoun controversy which was so adroitly engineered by Van Buren, Grundy's sympathies were undoubtedly on the side of Calhoun, but when he parted political company with the "Nullifier" he automatically lined up with the Van Buren faction. After Grundy's re-election to the Senate in 1833, William Carroll had written Van Buren advising him to have a "full and free conversation" with Grundy. Carroll had spoken to Grundy concerning Van Buren and had received an expression of a kind feeling toward that gentleman. Van Buren was warned that it would be well to make a distinct effort to increase his friends in Tennessee, and a most valuable step would be the adoption of a very conciliatory course toward Senator Grundy.[5]

The nominating convention had made its appearance during the Jackson Administration, and the President himself insisted that the Democrats unite on the person nominated by the convention. The friends of Van Buren felt certain that Jackson's support would assure the nomination of the "Red Fox." If White could be persuaded that the question of nomination should be left entirely to the convention, and that he and his friends should agree to support the nominee of that body, all would be well for Van Buren. Apparently it was with that point in view that Grundy and Polk, Jackson's most dependable supporters in his home state, began to show sympathy with the proposed candidacy of White. It was known that

[4] Fitzpatrick (ed.), *Autobiography of Martin Van Buren*, 382.

[5] Carroll to Van Buren, November 11, 1833, in Van Buren Papers.

White had previously opposed nominations by the caucus or by state legislatures,[6] and with some encouragement, would probably be willing to abide by whatever decision was made by the convention at Baltimore. There is no doubt that Grundy and Polk gave the friends of White reason to believe that they would support him; it was later maintained that they went so far as to avow their readiness to do so. It was further claimed that when they were questioned concerning a rumor of their opposition to White, Grundy had said that *"no man could say so of him and tell the truth,"* and Polk had complained *"that he should be so badly belied."* Grundy later vehemently denied that he had ever made such an unqualified statement of political friendship for White. He had always qualified his statements by adding the condition *"if he* [White] *was run by our political party."*[7] The truth of the case appears to be that Grundy and Polk led the White men to expect their support, but at the same time refrained from making an unqualified statement to that effect. Their attitude was a bait to draw White into the Baltimore convention, but he refused to be drawn.

On December 22, 1834, the Tennessee delegation in Congress called a meeting at the room of Congressman Bailie Peyton to discuss the propriety of urging White to become a candidate for president. Three members were absent—David Crockett, Polk, and Grundy. The uncompromising hostility that Crockett felt toward Jackson left no doubt as to his attitude, but there was concern over the absence of Grundy and Polk. Congressman Luke Lea stated that he had talked with Polk, and although the

[6] Jackson to Grundy, September 24, 1835, in Bassett (ed.), *Correspondence of Andrew Jackson*, V, 367.

[7] Washington *Sun*, quoted in Nashville *Republican*, February 11, 1836; Nashville *Union*, August 1, 1839.

latter had declined to attend the meeting on account of the personal relations between himself and some of the delegation, he had expressed a preference for White. The people in his district were favorable to the Senator, and he was ready to go as far as anyone to get White to announce. Congressman James Standifer said that he had seen Grundy, and although he too had declined to attend the meeting, he had declared that if White should be brought out he "would support him in any way in which he [White] would permit his name to be run." It was later charged that Congressman Cave Johnson added that both Polk and Grundy had informed him that should White become a candidate under any circumstance, they would support him.

A few days later Johnson expressed sentiments different from those he was alleged to have expressed at the meeting. The other delegates immediately addressed him a letter reminding him of his previous attitude.[8] Johnson denied ever making the statements charged to him, and a heated correspondence followed, all of which later appeared in the Tennessee press. To whom Johnson talked immediately following the meeting is not known, but the evidence points toward a conference with Grundy and Polk, who in turn were in close touch with Jackson. There is a possibility that Johnson attended the meeting for the purpose of reporting the proceedings to those three men. At any rate, those gentlemen, realizing that there was probably no longer any hope of getting the White men to abide by the decision of the convention, decided to come out openly in opposition to him. The letter from the delegation to White, requesting him to become a

[8] James Standifer *et al.* to Cave Johnson, January 1, 1835, in Scott, *Memoir of Hugh Lawson White,* 259–60.

candidate, was not signed by any of the three, Grundy, Polk, or Johnson.

In spite of the fact that Grundy and White were not on very friendly terms, the former's past record as a firm supporter of party solidarity forces one to give credit to his statement that he, for the sake of the party, would support no one who was not a nominee of the convention. His known opposition to nominations by the caucus added strength to his position, but his knowledge of the Old Hero's wishes undoubtedly prompted the final decision.

Jackson believed that White would not openly defy him and become a candidate; but if he did accept a nomination, Jackson threatened to make him "odious" in Tennessee. White, however, had a will of his own, and, being already out of harmony with many of Jackson's policies, was in no mood to bow to the will of the General. He had at one time probably hoped for support from Jackson, but that hope had changed to grim determination to defy the dictations from the White House. White later stated that Jackson's threat did what the solicitations of his own friends could not do—make him a candidate for the presidency.[9]

The Jackson men charged John Bell with the responsibility for White's candidacy. Strong in intellect and deliberate in action, he was never a good politician. But at this time political necessity urged a disregard of caution and the adoption of a more aggressive policy. There was no hope for his advancement within the organization over which Jackson held sway. Bell had held no love for

[9] Jackson to Van Buren, October 27, 1834, in Heiskell, *Andrew Jackson and Early Tennessee History*, III, 507; Knoxville *Register*, September 20, 1838.

Old Hickory since the election of 1827, and his grievance had been augmented by the contest with Polk over the speakership of the House of Representatives. To support White would be to fish in troubled waters, but even that was attractive to one whose political position was anything but desirable.

Jackson also placed blame upon David Crockett, who was probably his bitterest opponent in Tennessee. In a letter to Polk, Jackson declared that if he were a private citizen of Tennessee and "wanted everlasting fame" he would gain it by putting before the people a picture of what Tennessee once was and contrast it with what she was about to become. Only six weeks would be required to throw Tennessee "erect upon her republican legs again," and to hurl "Mr. Bell, Davy Crockett and Co. . . . from the confidence of the people." [10] No one was worse deceived in Jackson's strength at that moment than he himself.

Jackson was convinced that the Whigs and nullifiers were using White as a tool with which to split the Democratic party. "When Judge White has been *used to distract & divide the republican ranks* and Van Buren abused until, as far as the abuse of the opposition can make him odious, the Nullifiers in the South, & the Whiggs [*sic*] will unite on Clay & abandon the judge." [11] Polk and Grundy shared that belief, and there is much evidence to support their position.

As was expected, the Baltimore convention named Van Buren the Democratic candidate for president. Tennessee sent no delegates to the convention but a Tennessean by the name of Edward Rucker was picked up on the

[10] Jackson to Polk, May 12, 1835, in Bassett (ed.), *Correspondence of Andrew Jackson*, V, 345.

[11] *Id.* to *id.*, August 3, 1835, in Polk Papers.

streets of Baltimore, seated as a delegate, and actually permitted to cast the state's fifteen votes when the nominations were being made. Naturally the White group made a big stir over the "Ruckerized" convention, and the friends of Van Buren were very much chagrined over the event. Grundy wrote Jackson that "Rucker's silly conduct in voting at the Baltimore convention and the want of caution in the convention permitting it has done damage here." [12] The *Globe* tried to put a better face on an unpleasant situation by remarking that if any group was affected by the Rucker vote it was the Democrats. It certainly should be of no concern to those persons who had refused to have anything to do with the convention.[13]

Van Buren was a heavy load for Tennessee politicians to carry. He had never been popular in the state, and had carried it for vice-president in 1832 on Jackson's strength alone. His only hope for carrying the state in 1836 lay in the strength of Jackson and that handful of political leaders who continued to stick by him. But the Old Hero was fast losing his strength, and the support of a northern man in preference to a native son hastened the decline. Many men of the White type resented presidential interference in determining the succession. The opposition which had gradually gained strength during Jackson's Administration burst into open revolt in 1836.

When the attempt to lead White into the Baltimore convention failed and he became an avowed opponent of the nominee, the Jackson-Van Buren forces began open war. They planned to prevent his nomination by the Tennessee legislature. Jackson called upon Polk, Grundy, and Johnson "to stir the people," and they created all the stir they could. To Governor Carroll, Jackson sent copies

[12] Grundy to Jackson, June 6, 1835, in Jackson Papers.
[13] Washington *Globe*, June 22, 1835.

of the *Extra Globe* which contained White's votes on measures affecting the Administration. He wrote Grundy urging that he take charge of distributing that information and see that the materials were closely examined by the legislators and were *"well explained and commented on in debate"* before the legislature. If White's position on the expunging resolution should be made thoroughly known, Jackson believed it would mean the political death of both White and Bell.[14] Grundy was frequently present at the sessions, and aided by his friends, maintained a constant lobby in opposition to White, but to no avail. The legislators could not see that the nomination of White was any slap at Jackson, and so resolutions of approval of the Administration were passed at the same time as those nominating White. The Van Buren leaders also made an unsuccessful attempt to get the legislature to instruct the senators to vote to expunge the Clay resolution of censure.[15] Such instructions would have been pleasing to Grundy, but it was believed that White would resign rather than obey. He had offered to vote in favor of rescinding the resolution of censure, but had steadfastly refused to support the motion to expunge.

Since all efforts to block the nomination of White had resulted in failure, the Van Buren leaders in Tennessee —Polk, Grundy, Johnson, John Catron, Alfred O. P. Nicholson, and Carroll—made ready to carry the fight to the people. In such a campaign they were greatly weakened by a hostile press. Aside from the Nashville *Union,* which they established in March, 1835, and which was financed by them, the Van Buren leaders could depend upon no other important press in the state. To make up

[14] Jackson to Polk, August 3, 1835, in Polk Papers; *id.* to Grundy, September 24, 1835, in possession of Colonel Dickinson.

[15] Tennessee *House Journal,* 1835, pp. 71–72.

THIS SKETCH OF GRUNDY WAS MADE FROM LIFE AND PUBLISHED IN THE *United States Magazine and Democratic Review*, III (1838).

for the weakness, the *Union* press was forced to run day and night. Grundy called upon his friends to furnish him with mailing lists and then flooded the state with numerous issues of the paper.[16] These same leaders also took the stump in favor of Van Buren.

Tennessee had probably never seen so many political rallies and dinners as were held during 1835 and 1836. In order to keep the unpopular Van Buren's name in the background, his friends did not hold their dinners in his honor. They were usually designated as dinners to Grundy, Polk, or Johnson, or a combination of those names. A regular schedule was worked out and most of the leaders were present at all of the rallies and dinners. The greatest of these rallies was held at Vauxhall in Nashville. Hundreds of people were in attendance and speaking lasted all day. Grundy spoke for an hour and a half, giving a full history of the virtues of Van Buren and bitterly denouncing the iniquities of "White, Bell, and Company." The very newspapers which were so bitterly denouncing Van Buren, Grundy exclaimed, were the same ones which had denounced him in 1832 for not speaking in Van Buren's defense. If, however, his friends would forgive him for that failure, Grundy would promise never to pass up another opportunity to speak in favor of Van Buren. To all of those who were opposed to expunging, he wished to serve notice that, unless otherwise instructed by the legislature, he intended to go back to the Senate and vote for it. If, however, the legislature should instruct him to vote against it, he would obey.[17] It seems that Grundy was defying the legislature to instruct him. What his motive was is uncertain, but it appears that he really desired to be instructed and thus

[16] Grundy to Polk, June 26, 1835, in Polk Papers.

[17] Nashville *Union*, November 7, 1835.

bring the White legislature into disrepute in the eyes of the people.

Another big rally was held at Gallatin which, according to Grundy, was attended by all of the Halls, Lauderdales, Vincents, Elliots, Barrs, Cryers, Cages, Douglases, Wilsons, and Davises. "They eat [*sic*] freely but drank little" as they enjoyed "the greatest political day ever seen in old Sumner." [18] Similar rallies were held all over Middle Tennessee as thousands of toasts were drunk to Van Buren and his loyal supporters, and an even greater number of epithets hurled at White and his followers. "John Bell and Davy Crockett," exclaimed a Van Buren enthusiast, "the head and tail of White Whigism—the first a political juggler—the other a *Coon Catcher.*" An equally enthusiastic gentleman replied: "Grundy, Polk and Johnson: Too much honest, stern republican virtue and sagacity, to be caught in an opposition trap baited by *Bell, Crockett* etc." Frequent flings were taken at the White press. "The opposition press of Tennessee, a worthless volume of three chapters—first White, secondly, Humbug, thirdly Dictation." [19]

The White forces were as active as the supporters of Van Buren. Their enthusiasm was great and their attacks upon the Grundy-Polk group, and even Jackson himself, were vehement. Grundy was characterized as "a perfect Judas." He was too independent to represent his constituents properly and so they should be too independent to send him to the Senate again. He was pictured also as a slave for Jackson and the "more his master whips him the better he loves him." [20]

[18] Grundy to Polk, November 15, 1835, in Polk Papers.
[19] Nashville *Union,* November 9, 1835.
[20] Nashville *National Banner,* September 6, 13, 20, 27, 1836.

Throughout the campaign the White supporters struggled desperately to explain that they were still good Jackson men. They believed in all the Jackson principles but differed with the Old Hero on the question of his successor. They merely preferred their favorite son to the "Sage of Kinderhook." The fight, they explained, was not between White and Jackson but between White and Van Buren. Tennesseans were always ready to do honor to a patriot, but they could "never subscribe to that doctrine which embraces the negotiability of personal popularity." To that argument the Van Buren leaders replied that no man could be a supporter of Jackson and vote for White. A choice must be made between the two.

The White-Bell forces turned their heaviest guns upon Grundy. He was accused of being responsible for the position Jackson was taking in the contest. His dislike for White, it was charged, had led him to poison the General's mind. Jackson emphatically denied that such was the case. Never, in his presence, had Grundy made any statement that was calculated to harm either White or Bell, but he warned Grundy that "such insinuations you may expect to be constantly made by those who look with displeasure upon any political service which is devoted to republican principles." [21] Jackson needed no poisoning. It was poison to him for any man to offer opposition to what he considered right and proper.

The White press was especially severe in its attack upon Grundy. "The gentleman now represents—no, he does *not* represent, he misrepresents—the interests and

[21] Columbia (Tennessee) *Observer*, quoted in the Washington *United States Telegraph*, November 14, 1834; Grundy to Jackson, May 30, 1835, in possession of Colonel Dickinson; Jackson to Grundy, June 11, 1835, in Bassett (ed.), *Correspondence of Andrew Jackson*, V, 353.

wishes of the people of Tennessee in the Senate of the United States," exclaimed the *Republican*. The same press declared that the people's opposition to expunging had been signified by the legislature's failure to instruct the senators to vote to expunge, and if Grundy desired to represent his constituents he would act accordingly. He was not trying to represent them, but the interests of Benton [22] and Van Buren. Had he not done the wishes of the two gentlemen when he voted against the bill to distribute the surplus revenue among the states, and thus deprived Tennessee of the money which would have meant so much to her? "Any impartial observer who has noticed the political course of this gentleman of late must come to this conclusion, that Mr. Grundy is violating the wishes of his constituents to win golden opinions from those he hopes will be able to secure him a comfortable berth under the next administration." Grundy was alluded to as the "Captain General of Van Burenism in Tennessee." Since he was "palpably misrepresenting" his constituents, the people should "get up meetings," as Grundy had done when he was working for re-election to the Senate, and instruct their members of the legislature to demand his resignation. The *Enquirer* reminded Grundy that he could not serve "God and Mammon," and that Tennessee would "most assuredly remember her apostate politicians." [23]

The result of the election in Tennessee was a decisive defeat for Van Buren. White carried forty-four counties with a popular vote of 36,168, whereas Van Buren carried only nineteen counties with a vote of 26,129. The humiliation of Jackson was made complete by the news that

[22] Thomas H. Benton was sponsoring the expunging resolution.

[23] Nashville *Republican*, September 6, October 22, 1836; Memphis *Enquirer*, September 1, 1836.

White had carried the Hermitage precinct by a vote of forty-three to eighteen.[24]

Following the presidential election, Grundy as well as the *Union* assumed a temporizing attitude. The *Union* refrained from republishing the irritating articles that were found in the issues of the *Globe* and the Louisville *Advertiser*. Grundy's term in the Senate would expire in 1839, and he apparently hoped that, by adopting such an attitude, the opposition would be greatly weakened before that time. Many of White's supporters would probably become loyal to the Administration rather than definitely ally themselves with the Whigs. Jackson, however, was exasperated over such an attitude. He was not given to temporizing, which he characterized as lack of courage. He sensed that, in spite of Grundy's efforts to conciliate, a plot was being formed, and warned that unless Grundy assumed a more aggressive attitude it would soon be too late.[25]

A plot *was* being formed, but there is no reason to believe that the result could have been prevented. The hostility which Grundy had incurred by his active campaign against White made him an object of attack. The wrath of the opposition was increased by the fact that Grundy, as he had promised while campaigning for Van Buren, had returned to the Senate and voted in favor of the expunging resolution. The White-Whig group resolved that one of their number should be selected to succeed Grundy. The press clamored loudly for his defeat and even for his resignation. He was out of harmony with his constituents and should be made to feel the sting of their indignation.

[24] Phelan, *History of Tennessee*, 374; Powell Moore, "The Revolt Against Jackson in Tennessee, 1835–1836," in *Journal of Southern History*, II (1936), 356.

[25] Jackson to Polk, August 6, 1837, in Polk Papers.

Accordingly, the opposition set to work to select a legislature that would do its bidding. If successful, they could select a successor to Grundy in 1837 even though his term did not expire until 1839. The Grundy group, seeing what was planned, entered the contest. Apparently a White-Whig majority in the House was conceded, for it appears that Grundy's friends devoted the greater part of their time to the contest for seats in the Senate. If a majority of Senate seats could be won, then that body could refuse to concur in a proposal to go into a joint session to select a senator.[26] The efforts made by Grundy's friends were, nevertheless, in vain. The same wave of enthusiasm which carried Tennessee for White also swept a White-Whig majority into the legislature. That coalition had a majority of eighteen to seven in the Senate and forty-nine to twenty-six in the House.[27]

The aftermath of the White-Van Buren campaign was displayed on the floor of the legislature. Grundy, realizing the odds were heavily against him, instructed Polk, who was at the scene of action, to make such use of his name as he saw fit. If in Polk's belief the case was hopeless, he was to feel free to withdraw Grundy's name from the contest.[28] Apparently Polk realized that there was no hope, and Grundy's name was not put before the Assembly. The Democrats placed Carroll in nomination and the White-Whig coalition centered their strength upon Foster. It seems strange that Bell was not the candidate instead of Foster. He was certainly both the ablest and most prominent man in the ranks of the White group. The Democratic press claimed that Bell intended to be a candidate but Foster refused to give in, and Bell was

[26] J. H. Talbot to *id.*, April 21, 1837, *ibid.*

[27] Hamer, *Tennessee*, I, 294.

[28] Grundy to Polk, October 17, 1837, in Polk Papers.

forced either to withdraw or split the ranks of the new coalition.[29] This reasoning is not convincing but the situation has never been satisfactorily explained.

When the subject of such a premature selection of a United States senator was placed before the Assembly, debate became heated and partisan. Several members who were really opposed to Grundy counseled caution. Even if he did misrepresent the wishes of his constituents, that did not constitute a sufficient reason for electing his successor two years before his term expired. The proper course would be to instruct him. There was nothing to be gained by electing a senator at that time, reasoned George A. Wilson of Lincoln County. If Grundy was out of harmony with the people, why not request that he either correctly represent his constituents or resign his seat. "When this course shall be resorted to—when proper measures are adopted to keep him or any other public servant within the pale of his duty, I sir, for one, will be found hand in hand with the gentleman; but never, sir, never will I be found battling merely for the purpose of subserving party views—of venting party spleen, or elevating party favorites." Neil S. Brown of Giles County agreed with Wilson. He believed Grundy should be rebuked at the hands of the legislature, but he favored doing it by instructing him rather than selecting his successor at so early a date.[30]

There were others who were not so cautious. John T. Brien of Smith County declared that Grundy ought to be replaced at once. The Senator had deserted those principles upon which he had been elected. He had voted to expunge and by so doing had willfully disregarded what

[29] Nashville *Union*, October 12, 1837.

[30] *Ibid.*, October 24, 1837; Nashville *Daily Republican Banner*, November 15, 1837.

he knew to be the expressed desires of the people. He had also voted against the distribution of the surplus revenue among the states when he knew that such a distribution was greatly desired by his constituents. Washington Barrow of Davidson County exclaimed that he had not heard a single sound reason for postponing the selection, and he for one refused to be deterred by the "cry of party." When the day should come to cast his vote, declared W. B. Grove of Haywood County, he would do it "willingly and cheerfully for the *very best White Whig Federalist*" he could find.[31]

The minority made a desperate effort to stem the tide. George W. Jones of Lincoln County rebuked the legislators for considering the choosing of Grundy's successor before it was known whether he would abide by instructions. The proposed course was not the proper one for honorable men to pursue. Until the majority exercised its power to instruct, he would contend that Grundy "truly represented" the people of Tennessee. "I fear the great anxiety manifested to get Mr. Grundy out of the Senate is not the patriotic desire of having the State more faithfully represented, but to make room for some favorite Whig." Jo C. Guild of Sumner County, a close friend of Grundy and Jackson, was bitter in his denunciation of the scheme. "Sir, if not against the letter of the Constitution, this extraordinary step is against the spirit of the republican institutions of the country." [32]

The White-Whig group had the majority and they intended to use it. There was no certainty that they would continue to hold such an advantage in 1839. The *Union* served notice that if a senator were selected in 1837 the question would not be settled. The people would have a

[31] Nashville *Daily Republican Banner*, October 24, 26, 31, 1837.
[32] *Ibid.*, October 16, November 17, 1837.

chance to pass on such a partisan procedure and would force the Whig senator either to conform to the wishes of Tennessee or resign his "wrongly gotten commission." [33] But the majority would not be deterred and the election was held. Foster was selected over Carroll by a vote of sixty-five to thirty-three.[34]

Grundy's friends were furious. Before the legislature should condemn him, it should examine its own conduct and see if in selecting his successor the wishes of Tennessee had not been misrepresented. "Let those who are guiltless of the same offence, cast the first stone!" Nicholson warned that the sovereign people had not yet put the stamp of approval on what had been done by the legislature. They and they alone were to have the final say whether Foster, Grundy, or Carroll should be senator.[35] Grundy's supporters immediately began preparations for the election of a legislature in 1839.

The White-Whig forces were jubilant. Two tastes of victory had greatly increased their joy and hope. Their ambition led them on. Why not put a finishing touch upon the rebuke of Grundy by instructing him how to vote in the Senate? Nothing would be more humiliating to him than to be forced to vote against the pet Sub-Treasury scheme which had been recommended by his Chief. In fact, it was believed and hoped that his pride would force him to resign rather than submit to such a humiliation. Then he must be instructed. Accordingly, the legislature passed a resolution instructing the Senators from Tennessee to vote against any proposal which would put in force the Sub-Treasury plan suggested by the President.[36]

[33] Nashville *Union*, October 12, 1837.
[34] Tennessee *Senate Journal*, 1837, p. 383.
[35] Nashville *Union*, October 31, November 14, 1837.
[36] Tennessee *Senate Journal*, 1837, p. 383.

On September 4, 1837, Van Buren had called Congress into special session and recommended to that body a complete separation between the government and the banks. He desired to see the government take steps toward collecting, keeping, and spending its own revenue.[37] In other words, the President recommended that the government establish its own depositories or subtreasuries. It was that plan against which Grundy was instructed to vote. Some members of the legislature desired to instruct the senators to vote for the recharter of the Bank and a resolution to that effect was introduced, but never brought to a vote. The unfavorable reaction of the people to the premature selection of a senator warned the legislature against going to that extreme.[38]

Upon receiving the instructions, Grundy obeyed them by casting a vote against the Sub-Treasury bill, after explaining to the Senate his reason for doing so. He then sent a formal reply to the state legislature. That the contents of that reply were intended primarily for the people became evident when three thousand printed copies were distributed over the state.[39] Grundy recognized the right of the legislature to instruct the senators on any question. The vote he cast was not his, for the instructions had placed the responsibility upon the legislature. The people would please look to that body as the principal and to him as its agent.

He next entered upon a critical analysis of the instructions and the motives which prompted them. He pointed out that when the legislature was elected there was no issue before the people concerning the "collection, safe-

[37] Richardson (ed.), *Messages and Papers of the Presidents*, III, 324 ff.

[38] Jackson to Grundy, December 16, 1837, in possession of Mrs. James Allison, St. Louis.

[39] Grundy to Jackson, February 9, 1838, in Jackson Papers.

keeping, and disbursement of the public revenue." Therefore, in the election of the members, the people had no opportunity to express their preference on that issue. Why had the legislature waited several months to do the instructing? The President's message had been in the hands of the people since September. If the people of Tennessee had sent in any memorials to the legislature on that question, he was not aware of the fact, and since the session had been continuous, only a few members could have received firsthand instructions from individual constituents. Grundy maintained that there existed sufficient reasons for him to evade those instructions in spite of his previous recognition of the power to instruct. "In the first place, there is no evidence that your instructions are in accordance with the will of the people of Tennessee, with whom rests the paramount right or power to instruct; and, in the next place, because you instruct me to vote against a bill, of the contents of which you were wholly ignorant, never having seen it." But he would seek no excuse to evade his duty.

The greater part of Grundy's reply was devoted to a discourse on banks and banking. By those instructions he considered he had been told what *not* to do. Certain members of the legislature had been loud in their criticism of the Administration for not doing something to relieve the panic. They had rejected the President's plan but had offered no remedy of their own. Since a resolution to instruct him to vote for the Bank had failed to pass, he considered himself as having been instructed to vote against it. And since three fourths of the members had also censured the deposit system, he was unable to see what the Tennessee legislature wished to be done with the government money.

Personally, Grundy felt anxious to see *"a separation*

between the government and all banks." Such a step would keep money from being used for banking purposes and prevent loss of it in private transactions. He believed it would be a benefit to both the government and the banks, and would prevent periodic "expansions and contractions of bank issues." As it was, even those banks with which the government had deposited money had closed their vaults and refused to pay deposits even to the government. Should such a policy be continued in time of war, "disgrace and ruin, and national bankruptcy and dishonor, would be its inevitable consequence." This could also happen because of the inability of the banks to pay.

Grundy denied that he or the Democratic party was hostile to state banks, but he did not desire that the banks "be permitted to trade upon, or on any pretence to loan or use, the public money." He would not oppose state banks unless they should lay claim to the "possession and use of the money belonging to the people of the United States, and collected for the lawful purposes of government."

Regarding the recharter of a United States bank, Grundy was unchanged in his opinion. Such a recharter would create "a power that would not merely control the currency and the rise and fall of property, but would control the government itself. . . . If it should oppose the government, it would be stronger than the government. If it should unite with the government, it would make the government stronger than the people." [40]

Grundy's failure to resign was a keen disappointment to the opposition, and his reply fanned that disappointment into a bitter partisan attack. He had submitted but

[40] *Niles' Weekly Register,* LIV (1838), 20–21. Colonel Dickinson has two printed copies of this reply. Practically all Tennessee and Washington papers published it.

not with dignity, and had attempted to lecture those who had instructed him. But Tennessee wanted none of his advice on the topics of the day. His record gave evidence that he was out of harmony. If he were unable to do as instructed and do it cheerfully, then he should give way to one who could. But his friends were well pleased. Grundy, they believed, had by his action defeated the purpose of the Whigs and at the same time upheld his dignity. His reply to the legislature was considered a master stroke because it put the matter clearly before the people. Practically all the state newspapers entered the discussion on one side or the other. By its action in the premature selection of a senator, the White-Whig coalition had made a great contribution to its own defeat in 1839.

As Grundy sat in his lodging in Washington on February 9, 1838, writing to Jackson, he was a disappointed man. What he would do when his term expired, he was uncertain. He would not, however, be a candidate for a seat in the House for he had no desire whatsoever to be a member of that body. "My present impression," he wrote, "is that I shall retire from public life, and endeavor to repair my fortune, which has been shattered by my public service, for which I have received but poor compensation from the people whose interests I have endeavored to promote. This, however, is my consolation, I *know,* I have served the people faithfully, if they do not know it —and the time will come when they know it too." [41]

[41] Grundy to Jackson, February 9, 1838, in Jackson Papers.

Chapter XV

A REWARD TO THE FAITHFUL

IN spite of the fact that their Chief was elected to the presidency, the Van Buren leaders were keenly disappointed over the loss of Tennessee in both the national and state elections. There was hope, however, in the belief that the reign of the White-Whig group would be a short one. White would in all probability refuse to make the race in 1840, and many of his followers, rather than go over to the Whigs, would return to the Jackson ranks. At any rate, the Grundy-Polk group determined to spare no efforts in their attempt to elect a Democratic governor and legislature in 1839 and carry the state for Van Buren in 1840. The extreme exercise of power on the part of the legislature played directly into the plan.

Early in 1838 Grundy was in Washington conferring with party leaders and composing a long political letter which he mailed on January 18. In order to give his letter a wide circulation and at the same time not make it appear purely political, he had the letter lithographed and addressed copies to numerous friends in the various sections of Tennessee. It was a kind of secret political campaign that he was undertaking, for he gave instructions that the letter was not for publication. If his instructions had been followed, the opposition would never have been any the wiser. But a friend in Gallatin, omitting Grundy's name,

published a portion of the letter; and about the same time, Polk's paper in Columbia published a series of editorials based upon its contents. A striking similarity in the thought expressed resulted in an inquiry and ultimate publication in the Whig press. It was charged that Grundy believed the people too ignorant to distinguish between a lithographed letter and one in his own handwriting.[1] Why resort to the "miserable *device* of *secret circulars*," demanded the *Republican*. Only those whose deeds were evil feared the light.[2]

Grundy began his letter with a reference to the attitude of Congress toward the abolitionists. An antiabolitionist resolution had just been adopted, and he hoped it would "have a tendency to discourage the incendiary proceedings of these Fanatics; who shew, by their reckless course that they are wholly regardless of consequences; altho' the destruction of the union should be produced." The hatred of that group for Van Buren, he declared, was without bounds since the President had served notice that any measure which was designed to further abolition would be met with a veto. He then added an appeal for future support of the President. "I verily believe, Mr. Van Buren from his northern position, in addition to other reasons, can do more than any other man to put down this dangerous and disorganizing spirit."

It might be well at this point to observe the views which caused Grundy to rejoice at the temporary check of the abolitionists. Early in 1830 he had admitted that slavery was a misfortune, but refused to go so far as to pronounce it a crime. If slavery were a sin, he believed

[1] Such an accusation was unjust, but after the lapse of one hundred years the lithographed copies are hard to distinguish from Grundy's own handwriting.

[2] Nashville *Daily Republican Banner*, February 5, 1838.

that Christ, while on earth, would have condemned it; but instead of condemning, he had commanded slaves to obey their masters. If slavery were an error, Grundy believed it should be charged to the ones who produced the condition rather than to the slaveowner. This unfortunate system had been fastened upon the South by the traders of the East, and he saw no remedy for the evil. Experience had demonstrated that whites and blacks could not live together as free peoples. He wished success to the philanthropists who were "engaged in ameliorating the conditions" of this unhappy race. And should a "Moses rise up, and lead them peaceably to a distant land of liberty and plenty," he would not join in their pursuit.[3]

When abolitionist petitions made their appearance in Congress, Grundy took the attitude that they should be received but immediately placed upon the table. The people had a right to petition Congress but Congress was not obligated even to discuss those petitions. To discuss them would give courage to the petitioners and further excite the people of the slaveholding states. He was apprehensive lest the free states go so far in violation of the Constitution as to attempt to take away the property of the slaveholding states. In such an event the Union would be immediately dissolved, for the citizens of the South would not continue under a government that "plundered them of their property." The right of property in slaves, Grundy reiterated, was guaranteed by the Constitution. Any attempt to deprive citizens of that right "would be

[3] *Cong. Debates*, 21 Cong., 1 Sess., 214 ff. Grundy was a slaveowner himself, and was very fond of "Daddy," the faithful servant of his family for many years. "Daddy" usually accompanied him on his travels, and when the old slave died he, in accordance with his master's request, was buried at Grundy's feet. Emma Scott, "Home of Two Great Tennesseans," in *Olympian Magazine* (Nashville), May, 1903, p. 406.

such a departure from the great principles of the compact that the injured party would at once be absolved from the obligations it imposes on them." This statement was not intended to imply that the northern states were failing to do their duty. But the task of dealing with abolitionists was beyond control by the individual state and Congress should assist by preventing "incendiary publications" from passing through the mails.

The faith of the government, Grundy asserted, was pledged not to interfere with slavery in the District of Columbia. That faith he considered as sacred as the Constitution. When Virginia and Maryland ceded that territory to the government, the right to own slaves was not questioned, and it was under that condition that the inhabitants of the District had acquired their property. The freeing of their slaves would be a breach of faith. Congress could take over property for government use if it compensated the owner, but the Constitution did not give Congress power to take over property and set it free. If slavery should be abolished in the District, it would become a harbor for free Negroes, a place of refuge for runaway slaves, and an unfit place for the seat of the government.

The abolitionists, Grundy charged, had already created much alarm among the slaveholders. Masters who at one time desired that their slaves receive educational and religious instructions had been forced to alter their plans. "Where perfect and entire confidence existed, jealousies and distrust now prevail, and liberal and kind indulgences have been changed into necessary and rigorous restraints." He considered the slaves better fed, better clothed, and happier than the poor neighbors of the abolitionists. In his opinion the abolitionists would add more to "human happiness" if they would cease disturb-

ing the slave states and minister to their own neighbors in distress. In fact, the abolitionists were teaching the slaves to cut their masters' throats rather than obey them.[4]

Returning to Grundy's lithographed political letter, we find him speculating on the election of 1840. He had no doubt but that Clay would be the opposition candidate. If the Whigs went through the formality of holding a convention, it would be merely to get Webster and William Henry Harrison out of the way. The Whigs were very eager to keep Clay's name in the background, especially in Tennessee. Such a concealment, it was hoped, would lead local men to believe that any favorite son might be selected as the candidate. They were openly emphasizing that the defeat of Van Buren was the important thing, but secretly they already had their candidate picked. Tennesseans must stand fast in support of their principles. Were they willing to accept a high tariff for the enrichment of eastern manufacturers? Would they abandon their opposition to the Bank and internal improvements? "If those things are to be so, and Tennessee, instead of standing in the front ranks of Republicanism, as she has stood for years, is to wear the Livery and follow in the train and at the tail of Federalism, I shall rejoice that I am relieved from the public service."

Since Tennessee had recently increased its state banking capital, Grundy believed all the argument in favor of re-establishing a national bank had been removed. Such an institution would tend to destroy the banks authorized by the state. The question of exchange would take care of itself just as soon as the agitation for recharter ceased and the state banks resumed specie payment. In any case, "he who loves the independence and free institutions of his country, more than he loves money, should still op-

[4] *Cong. Globe,* 24 Cong., 1 Sess., 751 ff.

pose a National Bank, as dangerous to the public liberty." [5]

The *National Intelligencer* pronounced Grundy's letter a part of "a manifestation of the designs of the Administration party . . . to arouse dormant prejudices, to reinvigorate them, and bring them into active play." The letter was "plainly indicative of the existence of a great plan of operation upon the Southern States, for whose latitude its topics and its arguments show it to be obviously adapted." A similar note had been struck by the Charleston *Mercury* and the Richmond *Enquirer*. Could it be that they too had received a copy of Grundy's letter! [6]

While Grundy was making his preparations to return to private life, following the 1838–1839 short session of the Senate, the wheel of political fortune took a new turn in Washington. Benjamin F. Butler, the attorney general in Van Buren's cabinet, decided to resign. The fact that Grundy was a faithful party man who had lost his position on account of his loyal support of the President made him a political favorite to fill the vacancy in the cabinet. His close contact with Van Buren made him a personal choice, and years of legal experience had qualified him for the task.[7] Therefore, Grundy resigned his seat in the Senate and entered the President's cabinet on September 1, 1838. The legislature selected Foster, the man who was to succeed Grundy in 1839, to fill out the unexpired term.

[5] Several copies of this letter are in existence. One addressed to D. R. Gooch is in the possession of the Tennessee Historical Society. Another is in the Jackson Papers. A third copy addressed to R. M. Wood was published in the Nashville *Banner*, January 18, 1901.

[6] Washington *Daily National Intelligencer*, February 27, 1838.

[7] Amos Kendall stated that Grundy's appointment to the office of attorney general was one of the "political consequences" of the Bank struggle. William Stickney (ed.), *Autobiography of Amos Kendall* (Boston, 1872), 422. The Bank struggle was only a part of the story.

The disgust of the opposition over the promotion of Grundy was well expressed in the comment, "Whom The People Reject, The President Rewards." [8]

While a member of Van Buren's cabinet, Grundy was more of a political than a legal adviser. He spent more time and thought on how to carry the South, especially Tennessee, in 1840 than on questions of law. His legal reading had been limited, and he doubtless found the work of his new office rather dry and dull. He was better tempered to the excitement of a heated debate or a political campaign than to the cold reasoning of legal opinions. Had he not already lost his seat in the Senate, Grundy undoubtedly would have declined a cabinet appointment. It seems strange that Jackson had never rewarded him for his loyalty, but the probable reason was Grundy's lack of desire for such a reward. He had often been talked of for an appointment as postmaster general, but there is no evidence that he ever desired the office.

The soundest advice a political associate could have given Van Buren would have been to make every effort to increase his popularity. To increase the President's popularity in the South, especially in Tennessee, was the task undertaken by Grundy. He had already taken a step in that direction when he stressed Van Buren's opposition to the abolitionists. As the late war with Great Britain had been popular in the South and West, Grundy reasoned that a good record as a "War Democrat" would strengthen the President in those regions. Accordingly, he had the *Globe* publish an article over his signature, vindicating Van Buren's conduct during the War of 1812. But, as his enemies were quick to point out, the Attorney General had failed to discuss Van Buren's effort to defeat the War President. The *Virginian* pronounced Grundy a "dex-

[8] Cincinnati *Gazette*, quoted in Paris *West Tennessean*, July 20, 1838.

terous special pleader," but added that it would take "more ingenuity than even he possesses to prove that black is white." The Alexandria *Gazette* remarked that "if the duties of Mr. Grundy's office, for the performance of which he receives a handsome salary, are so light as to enable him to devote much of his time to 'interference with the elections' in the States, the compensation ought to be decreased." [9]

During the state election of 1839, Grundy returned to Tennessee to do his best for the Democratic cause. An observer in Lynchburg, Virginia, remarked that the Attorney General had just passed through on his way to Tennessee to electioneer against John Bell for Congress and in favor of Polk for governor, and sarcastically added that he was glad to see Grundy "so little encumbered by official duties, that he is able to write electioneering articles and to act as a travelling missionary at the same time." [10] Grundy was truly a traveling missionary for the Democratic cause, and the efforts made by him and his friends bore fruit in 1839. Polk was elected governor of Tennessee, and the Democrats gained control of the legislature. The thing that the legislature of 1837 had feared might happen in 1839 had come to pass.

Grundy had evidently forgotten the remarks he had made on the floor of the Senate in 1834. "Every officer of the Federal Government is entitled to a free and uninterrupted right of suffrage, and should not be disturbed in the exercise of it; but, when they become partisans in elections, and attempt to control the elective franchise in others, they should be dismissed from public employ-

[9] Lynchburg *Virginian*, quoted in Nashville *Whig*, June 21, 1839; Alexandria (Virginia) *Gazette*, quoted in Paris *West Tennessean*, July 12, 1839.

[10] Lynchburg *Virginian*, quoted in Nashville *Whig*, June 21, 1839.

ment; and I should be gratified to see this principle acted out to its fullest extent, whether the officers thus engaged act with or against the party to which I belong. When I see an office-holder interfering in elections, the first idea that strikes me, is, that he is thinking of his office and his bread; and, therefore, an unfit adviser of those whose only object is the public good." [11]

In 1839 the Tennessee Democrats found themselves in a position similar to the one occupied by the White-Whig coalition in 1837. They controlled the legislature, but their representatives in the Senate were of the opposing party. Senator White's term would expire in 1841, but Senator Foster had just begun his six-year term. The mere selecting of a successor to White was not sufficient to satisfy the Democratic cry for revenge. If White and Foster were to serve out their terms, then they must represent the wishes of the majority. They must be instructed to support the Administration measures. Grundy was consulted and sent in his plan for handling the whole affair. He desired to see White's successor chosen at once, and since his friends had insisted, he would be willing to succeed White in 1841. The senators ought also to be immediately instructed to support the Administration measures. If that should be done he felt confident both would resign. In such an event, Foster's successor should be chosen from East Tennessee, thus leaving White's successor to Middle Tennessee. Some good party man could then be appointed to serve the remaining two sessions of White's term, and Grundy would begin with the new term in 1841. By such an arrangement, Grundy would be permitted to serve out his term as attorney general and then return to the Senate. If he should abandon his posi-

[11] *Cong. Debates*, 23 Cong., 1 Sess., 434.

tion in 1839, he feared the result would prove injurious to both the public and himself. The course he suggested, Grundy believed, "would afford Democracy the greatest triumph." [12]

The legislature immediately took steps to give effect to the plan. On November 14, 1839, it passed a series of resolutions instructing the senators to (1) vote against rechartering a national bank; (2) vote for the Sub-Treasury bill; (3) vote against any bill intended to prevent the interference of Federal officers in elections; (4) vote against distributing among the states the proceeds from the sale of public lands, but "for the graduation and reduction of the price on the public lands, and for granting pre-emption rights to the settlers thereon"; (5) support all leading measures and policies advocated by the President.[13] A more perfect outline of Grundy's views on public matters could not have been made.

Foster immediately tendered his resignation,[14] but White returned to his seat in the Senate without announcing his intentions. The Democratic leaders had already been considering the question of successors to the senators and had encountered a serious difficulty. There were several Democrats of nearly equal prominence and each of them desired the appointment. As Governor Polk explained in a long letter to President Van Buren, those several gentlemen were all pushing their claims and they refused to withdraw in favor of any of their number. Among them were found a few whose loyalty to the Democratic party was open to question, and they, in all probability, would not be averse to courting the minority for the purpose of getting votes. There was danger that the

[12] Grundy to Polk, October 17, 1839, in Polk Papers.

[13] Tennessee *House Journal*, 1839, pp. 176–88. [14] *Ibid.*, 188–208.

whole Democratic plan might be wrecked. The name of Felix Grundy was all that could save the situation. If his name should be put before the legislature, the other candidates would withdraw. Polk believed that "Mr. Grundy's election too would be the most popular that could be made in the State because it would be simply re-instating him, in the place from which he was driven, by our opponents whilst they were temporarily in the ascendancy." For the foregoing reasons, Polk requested Van Buren to consent to Grundy's withdrawal from the cabinet for the purpose of returning to the Senate.[15]

Grundy appreciated the situation and felt highly honored by the regard with which his name was treated by the party. Although it does not appear that Grundy ever gave his consent to an immediate return to the Senate, he undoubtedly left no question in the minds of his friends as to his acceptance of the honor if it should be conferred upon him. On November 19, 1839, the legislature took up the question of selecting Foster's successor. Grundy was placed in nomination by the majority, and the minority proposed the re-election of Foster. Grundy was selected by a vote of fifty-six to forty-four. His term was to date from March, 1839,[16] the date upon which Grundy's term in the Senate had expired.

They "have again reinstated the old *Nullifier,* red-eyed Felix Grundy," remarked "Parson" William G. Brownlow in disgust. Grundy had not desired the election, explained another Whig, and could not have had it except for the influence of Polk and Jackson. Those two gentlemen, "for reasons best known to themselves," desired to see Grundy elected and so forced him on the "track" and

[15] Polk to Van Buren, November 11, 1839, in Van Buren Papers.
[16] Tennessee *House Journal,* 1839, p. 218.

all the other Van Buren candidates off.[17] Obviously the editor was ignorant of many details. The Democratic press was jubilant. Grundy, the *Union* proudly exclaimed, could turn to the "*Federal Leaders* who moved the *wires* in the Legislature of 1837–38" and triumphantly say: " 'The people—*your masters*—have countermanded your orders. They say they are glad that I refused to join the Anti-War Federalists, and now bid me back into the Senate to wage war with the power that you instructed me to join and sustain.' " [18] Grundy himself later remarked that the happiest day in his life was when he was chosen to return to his old seat in the Senate.[19]

The rejoicing was temporarily suspended when it was suddenly realized that the Constitution required a senator to be an inhabitant of the state at the time of his election. Much depended upon the interpretation of the word *inhabitant*. If it meant a continuous resident, Grundy was ineligible to fill the position to which he had been elected. After talking with his friends in Washington, he concluded that his few months of residence in Washington following his appointment as attorney general had made him a resident of that place. To be eligible, he must re-establish his residence in Tennessee. Grundy immediately dispatched a letter to Polk informing him that he was returning to Tennessee. He desired to have an immediate and private conference with his friends of the legislature. The place of the meeting should be remote enough to give Grundy a chance to talk. "I can and will remove any obstacles, but to save the Constitution, I must

[17] Elizabethton *Tennessee Whig*, November 28, 1839; Nashville *Republican Banner*, November 20, 1839.

[18] Nashville *Union*, November 20, 1839.

[19] See speech on assumption of state debts.

be at home a private citizen—I shall come prepared to make everything right instantly. If I am to take my seat in the Senate I must not be detained. I am acting not only according to my best judgment, but upon the safe counsel of friends here." [20]

A few days later Grundy resigned his office of attorney general and hastened to Tennessee. Apparently the conference with the Democratic legislators took place and all was arranged. On December 14 Grundy sent a letter to the legislature, rejecting his recent election to the Senate, and explaining his reasons for doing so. The Constitution said that a person, in order to be eligible to the Senate, must, at the time of election, be an inhabitant of the state. Since to be an inhabitant one must dwell in the state consistently, Grundy reasoned that he did not meet the qualification. As he had been obliged to live in Washington after his appointment as attorney general, he could be considered as an inhabitant of Washington only. He pointed out that the word *inhabitant* must not be confounded with the word *resident* or the word *citizen*, which terms might be broadly construed to apply to persons of a community "even though absent for years." He further explained that he had chosen his course in order to avoid a deviation from either the letter or the spirit of the Constitution. Had he accepted the appointment it would have been in opposition to his better judgment, and had he declined without returning to Nashville it would have been an act of ingratitude. "I have adopted the only course left me. I have resigned the office of Attorney General of the United States. I am now not only a citizen, but an inhabitant of the State; I am now a Tennessean in the full sense of the term, and entitled to all the rights and privileges which belong to that proud name. Whether

[20] Grundy to Polk, December 1, 1839, in Polk Papers.

I remain in private life, or be restored to membership in the Senate of the United States, depends entirely on your good pleasure." [21]

The procedure had already been decided upon. Grundy was nominated, but the Whigs declined to make a nomination. In balloting, they scattered their votes among themselves, and one vote was cast for Andrew Jackson. Grundy received fifty-seven votes, and, for the second time during the session, was chosen United States senator.[22]

When Grundy again took his seat in the Senate, he was probably more devoted to the principles of the Democratic party and to its venerable chief, Andrew Jackson, than ever before.[23] No instructions could have been more pleasing to him than those that had caused the resignation of Foster. If he had written his own instructions,

[21] Tennessee *House Journal*, 1839, pp. 321, 668.

[22] *Ibid.*, 324; Nashville *Republican Banner*, December 16, 1839.

[23] It was during this session that Grundy delivered his greatest eulogy on the aged Jackson. Crittenden remarked that he could see a light rising in the West which gave him hope for the Whig cause in 1840. Grundy replied that he could see no such light. "But I *have* seen a light arise in the West; and so brilliant was it, that it dimmed and obscured all the lesser lights around it; it ascended higher and higher, until it reached the meridian; there it remained stationary for a time; so effulgent was it, that it irradiated this whole continent; its rays crossed the Atlantic, and penetrated the courts and palaces of kings, and influenced their councils; it was seen and felt wherever civilized man dwelt. But that light is fast descending in the West; it has almost reached the horizon, and will soon be beyond the sight of mortals. Mr. President, you and I shall never see its like again; we are too old. Such lights do not visit our earth but at rare and long intervals. I need not say to the Senate, or to this audience, that the individual I have described . . . is Andrew Jackson, the pride and glory of our country. When impartial history shall have faithfully performed its office, the aged men of after times will point him out to their children as a man to be imitated, but not be equalled." *Cong. Globe*, 26 Cong., 1 Sess., Appendix, 226.

they would have differed but little, if any, from those adopted by the legislature. His colleague, however, was not in such a desirable position. By 1839 White had definitely become a Whig, but it is doubtful whether he embraced all the principles advocated by Clay. His opposition to the Administration, however, would force him to vote against its Democratic measures. As had been predicted by Polk and others, White did not resign immediately after being instructed by the legislature. He returned to the 1839–1840 session as if he intended either to obey or defy the instructions, but before the session had progressed very far, the sight of the Administration Sub-Treasury bill was more than he could stand. Accordingly, on January 13, 1840, he presented to the Senate the instructions which he had received, read his reply to the legislature, and resigned his seat. Grundy made a brief reply stating that there was no part of the instructions with which he did not agree; therefore, he stood ready to obey them.[24]

Before leaving the Senate chamber Grundy wrote to Governor Polk. "White has just resigned . . . he was very respectful—so much so, as not to Justify a reply—I only made a short statement of the course I should pursue. Now elect a successor and I beg my friends to cover the 8 years. The successor should be here immediately as the Independent Treasury bill may [be] in danger in the Senate." [25] The Democratic victory was complete.

[24] *Cong. Globe,* 26 Cong., 1 Sess., 116–17.

[25] Grundy to Polk, January 17, 1840, in Polk Papers. Some time later Van Buren inquired of Grundy as to how White was spending his time since he had retired. Grundy replied that "he sits all the day long in the chimney corner, spitting tobacco juice by the gallon, cursing everything and everybody, except his Creator,—but *thinking* devilish hard of Him." Fitzpatrick (ed.), *Autobiography of Martin Van Buren,* 226 n.

The joy over the Democratic success in the Tennessee state election of 1839 was mixed with fear for the outcome of the presidential campaign of 1840. Grundy, as Van Buren's ambassador of good will, had been devoting much thought to the possibilities of the approaching election. He could see no danger of a party split on Van Buren, but there was plenty of worry over the candidate for vice-president. He and other friends of Polk had decided that the Tennessee Governor should be placed on the ticket with Van Buren,[26] but the friends of Richard M. Johnson thought otherwise. Grundy at first opposed holding a national convention, but when the sentiment in favor of such a convention made it a certainty, he devoted his energies to testing out the strength of Polk. His frequent letters to the Tennessee Governor show that the nearer the time came for holding the convention, the more doubts Grundy entertained as to Polk's chances of receiving the nomination. He finally concluded that the best move would be to prevent any nomination being made for that office, and to leave the choice to the electoral college. In that way, it was believed that Polk had a chance of being elected.[27]

The convention met at Baltimore. Before the session began, Grundy busied himself with the arrangement concerning the nomination for vice-president. He learned that in New York many preferred Johnson rather than Van Buren, and the supporters of Van Buren in that state

[26] Polk owed much of the credit for his success in public life to Grundy. As a young man, he began his study of law in Grundy's office. It was also Grundy who secured for him his first position as clerk of the state Senate. At the next election Polk was a member, and from that time his elevation was rapid.

[27] For the development of Grundy's opinion on this point, see his letters to Polk on February 3, March 2, April 15, 23, 1840, in Polk Papers.

hesitated to push Polk for fear of further weakening the President. A compromise was necessary to prevent serious injury to the party. That compromise was largely the work of Grundy and his New York friend, Silas Wright.[28] It was decided that the convention should nominate Van Buren for the presidency, and then adjourn without making a nomination for the vice-presidency.

The convention was called to order by Grundy, who moved that Governor Isaac Hill of New Hampshire take the chair. Grundy then arose and, following great applause, proceeded to deliver what today would be classed as the keynote address. As far as principles or views were concerned, his address contained nothing new. He reiterated his inveterate hostility to the recharter of a national bank. It was an institution of the aristocracy and those who desired to live by their wits rather than their labor. Industry and virtue make the man; these are the attributes of the democracy, exclaimed Grundy. "Show me a man who wants to live on his wits alone, or by the injuries he can inflict upon his neighbors, and I will tell you that that man is not one of us. He does not belong to our party at all. He is a federalist, aristocrat and modern whig besides."

The major portion of Grundy's address was devoted to an attack upon the Whigs and their candidate, William Henry Harrison. The name of Whig, he averred, was being badly misused. It once sounded "delightfully and pleasantly to every patriot's ear," but that was when the name applied to the friends of the country. No British gold found its way into the pockets of the true Whigs. He did not mean to charge that all those persons who called themselves Whigs had accepted British gold, but

[28] "Diaries of S. H. Laughlin," in *Tennessee Historical Magazine*, II (1916), 52.

not more than one out of twenty of those who had been guilty of such an offense could be found in the Democratic party.

For what did the Whigs of 1840 stand? They had made none of their principles known. All they had done was to pick up a harmless county clerk and talk him into the appearance of a great man capable of a skillful management of the government. He observed in the convention several delegates from Ohio, and would like to inquire of them as to how the Whigs were handling their candidate. He had understood that Harrison was guarded by a committee which supervised his every word and deed for fear that he might make a misstatement. Was it true that the committee of supervisors even went with him to the post office to be certain that he received or replied to no letters which might seek a statement of his position on the important topics of the day? Would the people elevate a man to the presidency without knowing upon what principles he would base his actions? Such a course was very different from the ones followed by Andrew Jackson and Martin Van Buren. They were open and frank. They believed in their principles and did not hesitate to tell the world just where they stood on the issues of the day. Van Buren opposed that wicked scheme called abolition and he had proclaimed that he would block the advocates of it whenever an opportunity should present itself. What did the well-guarded Whig candidate have to say on the subject? He said nothing for fear of losing votes either in the North or the South. Grundy pledged himself never to vote for any man who concealed his views on public questions.[29]

The convention nominated Van Buren, and then Grundy suggested that, since the group could not agree

[29] *Niles' Weekly Register,* LVIII (1840), 147–48.

upon a candidate for the vice-presidency, no nomination be made for that office. A head for the ticket had been named so he felt sure "the tail would not be far behind." His suggestion was accepted and the convention adjourned. Grundy's maneuvering served several purposes. It avoided a split in the party, rewarded a faithful friend, and gave strength to the Van Buren ticket in Tennessee.

The Baltimore speech promptly drew fire from the opposition. On June 2 a Whig meeting at Cincinnati adopted resolutions bitterly denouncing Grundy for his utterances relative to Harrison, and lamenting the fact that he had not permitted such "miserable slander . . . to lie loathed of all the honest and the good, in the sewer where it had its origin." [30] Grundy was well pleased with the resolutions since they furnished him a good excuse to continue and expand his attack upon Harrison. Obviously the plan was to draw out the opposition and force a committal on public issues.

On June 15 Grundy expanded his attack in a reply to the resolutions. He cited a letter from the "confidential committee" stating that the General's policy should be to make "no further declaration of his principles for the public eye, whilst occupying his present position" as a candidate for president. What an attitude for the managers of a campaign! The people had a right to know upon what ground Harrison was basing his claim to the presidency. Grundy further cited documents and records to show that the Whig candidate had, at the age of eighteen, joined an abolitionist society, and that while in the Senate he had voted for a high tariff and internal improvements. In a speech at Cheviot, in 1833, the General had even advocated the use of the surplus revenue for the purpose of emancipation. Since those were the views

[30] Cincinnati *Chronicle*, quoted in Nashville *Whig*, June 8, 1840.

expressed by the Whig candidate prior to the campaign and since he now refused to express his views, Grundy supposed that the public would be compelled to judge the General by his former position. Accordingly, the Whig candidate was denounced as an "advocate of a system of taxation fraught with injustice to a large portion of the Union, and applied to objects which the Constitution does not sanction, and never contemplated." Never before had a "candidate for a distinguished office of popular trust, refuse[d] to explain his opinions without hesitation." [31] Copies of his letter were immediately placed in the hands of the Democratic publishers.

Before the presidential campaign of 1840 had progressed very far, it was apparent that the Whigs intended to substitute ballyhoo for discussion of political issues. Such a decision greatly handicapped Grundy and Polk. They were debaters but the Whigs gave them nothing to debate. They were orators but oratory could not keep pace with log cabins, raccoons, and hard cider. The Whigs placed much stress upon simplicity. A man who had been born in a log cabin was asking for the support of the common people. Since the chief source of Democratic strength in Tennessee lay in the rural folk, the Whig tactics were to have a devastating effect upon the Democratic vote.

Grundy assumed the leadership of Van Buren's forces and carried the campaign into East Tennessee and southwestern Virginia, where he and Whig leaders frequently spoke from the same platform. At Greeneville, Tennessee, he appeared on the program with Thomas D. Arnold, a Whig lawyer whose chief distinction was "his proneness to abandon the profession whenever the opportunity came to go into politics." On this occasion Arnold carried

[31] Nashville *Union*, July 16, 1840; Washington *Globe*, June 23, 1840.

simplicity and ribaldry to the extreme. Dressed in a suit of "nankeen, with blue, white, yellow and perhaps red stripes," he was quite a contrast to Grundy in a ruffled shirt, gold ring, and diamond studs.[32] Arnold preceded Grundy on the program, and by way of emphasis on the simplicity of the Whigs made a great display of his "zebra-like" costume. Then, turning to his opponent, he called upon the audience to witness whether or not Grundy's attire showed him to be a man of the people. When Grundy arose he remarked: " 'If I were young and handsome as my friend is [ironically], I could wear anything, even the ring-streaked, striped, and speckled suit, like Laban's sheep, in which he is arrayed, and which so admirably suits him, and so well represents the principles of his party. But I am old, my hair is white, my face is furrowed with wrinkles, and it has lost the ruddy bloom of youth so beautifully marked on my friend's face. [Mr. Arnold's face was scarlet.] I am going to my old friends and constituents. I have put on the best I could find as a compliment to them. . . . I go to them arrayed in the best possible way, to hide, as far as possible, the hideous ravages of old age.' " The crowd, which were for the most part Democrats, received Grundy's reply with an applause that "shook the very foundation of the hills." [33]

On the next day, Arnold followed the Grundy group to Rogersville, and, in his crude way, got revenge for the embarrassment that he had suffered at Greeneville. On his way thither he was caught in a heavy rain storm. His "thin nankeen suit was wet, and had drawn up and stuck to him as though he had grown in it." In that condition he entered the courtroom where Grundy was speaking

[32] Temple, *Notable Men of Tennessee,* 58.

[33] *Ibid.,* 60; Will T. Hale and Dixon L. Merritt, *A History of Tennessee and Tennesseans* (Chicago, 1913), II, 487–88.

and cried out, " 'Here I am again.' " He promptly demanded that the Democrats give him a place on the program, and when refused, he cried " 'To the street, to the street!' " More through curiosity than party loyalty, over half of the crowd followed him. He quickly mounted a drygoods box which was placed just across the street from the courthouse, had Whig campaign song books distributed among the crowd, and took the lead in singing songs in the highest pitch and without regard for the tune. Between songs three cheers were given for "Tippecanoe and Tyler too." Grundy's audience was so greatly diminished that he cut his speech short, ordered his carriage, and he and his party prepared to leave for their next appointment. As the carriage drove by, Arnold shouted from his goods box, " 'Get out of the way, get out of the way there, you common people, or those lordly aristocrats will drive right over you!' " [34]

Arnold and his singers followed the Grundy party all over East Tennessee, using the same tactics that they had used at Rogersville. Grundy's attacks on the Whig party's lack of political principles and its candidate's total lack of talent were lost among the songs and shouts for "Tippecanoe and Tyler too." Political reasoning was supplanted by log cabin parades and the extensive use of hard cider and its substitutes.

During the campaign Henry Clay made a trip to Tennessee. He inquired about his friend Grundy, and upon being informed that Grundy was in East Tennessee speaking in behalf of Van Buren, Clay remarked, "Ah! . . . at his old occupation, defending criminals! But there is this difference between my distinguished friend's present and past defence of criminals: He is now defending *state* criminals, not before a carefully packed jury, but before

[34] Temple, *Notable Men of Tennessee,* 60.

a free, enlightened, virtuous, and patriotic people; and, therefore, we may well hope, that his present efforts will not be attended with his hitherto usual success." [35] In reply to Clay, Grundy in a speech at Murfreesboro admitted that he had acquired a fair reputation as a criminal lawyer, but "he felt well assured if Mr. Clay were to be indicted and brought before a court of strict justice for all his political offenses, and he (Mr. G.) were to be retained as his counsel, it would prove to be another Bennett case!" [36]

Near the close of the campaign, Grundy, almost completely exhausted by the strain and the aggravated condition of a stomach disorder which had troubled him for several months, returned to his home in Nashville where he was shortly confined to his bed. Jackson and other friends called in an effort to cheer him, but his body, in its weakened condition, could not halt the ravages of disease, and he died on December 19, 1840. When his physicians, Drs. Samuel Hogg and Felix Robertson, took him by the hand and informed him that the end was near, he replied, "The Lord's will, not mine, be done." [37]

[35] Colton (ed.), *Works of Henry Clay*, I, 113.

[36] Guild, *Old Times in Tennessee*, 299; Nashville *Union*, November 3, 1840.

[37] Laughlin, "Sketches of Notable Men," in *loc. cit.*, 75–76. Funeral services were conducted at the Presbyterian Church, of which he had long been a member, and he was interred with the ceremonials of the Masonic Order at Mount Olivet Cemetery in Nashville.

CRITICAL ESSAY ON AUTHORITIES

Manuscript Collections

Such correspondence and private papers as were preserved by Felix Grundy were apparently divided among his children, and after the lapse of a hundred years his great-grandchildren possess little more than souvenirs from what must have been an extensive correspondence. The best collection is in the possession of Colonel Henry Dickinson, Nashville, and includes a number of letters from John C. Calhoun and Andrew Jackson together with a limited amount of correspondence with local political leaders. It also contains a few printed political letters and other miscellaneous material. Two great-granddaughters, Mrs. Whiteford Cole, Sr., Louisville, and Mrs. James Allison, St. Louis, have a few Grundy-Jackson letters. William E. Steger, Nashville, possesses two short manuscripts on Grundy which were prepared by his mother, but he made no letters available. If other members of the family have preserved any manuscripts they have been unwilling to permit the use of them.

The major portion of the Grundy and other pertinent correspondence is found in the Division of Manuscripts, Library of Congress. Without the use of the invaluable material in the John Breckinridge Papers, Grundy's early political life could not have been adequately treated. They contain no Grundy letters but Breckinridge's voluminous correspondence with his friends in Kentucky is filled with references to Grundy and the political battles in that state. The James Brown Papers were also of some aid in this same connection. Brown was the brother of Senator John Brown and a brother-in-law of Henry Clay. The Clay Papers con-

tain surprisingly little material on Grundy. For forty years these men were almost continuously together in public life, yet not a half dozen Grundy letters are found in the Clay Papers and references to him are infrequent. The John J. Crittenden Papers contain valuable manuscripts on the Kentucky-Tennessee boundary dispute, including the entire correspondence of the commission of which both Crittenden and Grundy were members. Similarly limited in scope but of value on the Tennessee land question are the William Polk Papers. No Grundy letters are found among them but Polk, a member of the Board of Trustees of the University of North Carolina, was in close touch with the University's representatives in Tennessee who were in contact with Grundy. The papers of Thomas Jefferson, James Madison, and John Randolph are essential to a study of the War of 1812 but they contain no Grundy correspondence.

Of inestimable value in the preparation of this study were the papers of Andrew Jackson, James K. Polk, and Martin Van Buren. The close political connection between Jackson and Grundy from 1807 to 1840 resulted in an extensive correspondence covering most phases of state and national political life. Most of these letters, however, have been published. The friendship between Polk and Grundy began while Polk was a student in Grundy's office, but the correspondence covers the period of 1830–1840 only. These letters are rich in details of state and national political struggles and reveal an intimacy nowhere else to be found in Grundy's correspondence. Following the break between Jackson and Calhoun, Grundy and Van Buren began a political alliance which climaxed with Grundy's appointment as attorney general. Their letters are particularly important for the period 1836–1840.

Printed Correspondence

After one has struggled for days in an attempt to decipher the almost illegible handwriting found in such collections as the Breckinridge manuscripts, it is relaxation to use the printed correspondence made available through the able editorial work of others. The most valuable published cor-

respondence is John Spencer Bassett (ed.), *Correspondence of Andrew Jackson,* 6 vols. (Washington, 1926–1933). Since this excellent work does not include letters already published, it must be supplemented by the Jackson correspondence in the *American Historical Magazine* (Nashville, 1896–1904), IV, V (1899, 1900), and the New York Public Library *Bulletin,* IV (1900).

Of special value for the period of the War of 1812 are the "Letters of Samuel Taggart to Reverend John Taylor," in American Antiquarian Society, *Proceedings* (Worcester, Mass., 1812–), XXXIII (1923). Other letters, few in number but important in content, are found in Edward J. Harden, *George M. Troup* (Savannah, 1859); Henry Adams, *Life of Albert Gallatin* (Philadelphia, 1880); Edmond Quincy, *Life of Josiah Quincy* (Boston, 1869); and Hugh A. Garland, *The Life of John Randolph of Roanoke,* 2 vols. (New York, 1851). The works of James Madison are indispensable to a study of this period but they contain little of importance in a study of Grundy. The most complete collection is Gaillard Hunt (ed.), *The Writings of James Madison, Comprising His Public Papers and Private Correspondence,* 10 vols. (New York, 1910), but owing to availability citations have been made to *Letters and Other Writings of James Madison,* Congress edition, 4 vols. (Philadelphia, 1865).

Papers of local political leaders are seldom made available in printed form. The only collection which throws light upon Grundy's legislative career in Tennessee is William Henry Hoyt (ed.), *The Papers of Archibald D. Murphey,* North Carolina Historical Commission, *Publications,* 2 vols. (Raleigh, 1914). These papers are helpful in the study of state land legislation. Some pertinent correspondence is also found in Mrs. Chapman Coleman, *Life of John J. Crittenden,* 2 vols. (Philadelphia, 1871); Samuel G. Heiskell, *Andrew Jackson and Early Tennessee History,* 3 vols. (Nashville, 1921); Nancy Scott, *A Memoir of Hugh Lawson White* (Philadelphia, 1856); and Ninian W. Edwards, *History of Illinois and Life and Times of Ninian W. Edwards* (Springfield, 1870).

Collections of the correspondence of most of the prominent men of the Jackson period have been published. The most complete publication of Clay letters and speeches is

Calvin Colton (ed.), *The Works of Henry Clay,* 10 vols. (New York, 1904). The works of Calhoun are available in Richard K. Crallé (ed.), *The Works of John C. Calhoun,* 6 vols. (New York, 1851–1859); and J. Franklin Jameson (ed.), *Correspondence of John C. Calhoun,* American Historical Association, *Annual Report,* 1899, II (Washington, 1900). Two publications of Webster's correspondence have been consulted: Fletcher Webster (ed.), *The Private Correspondence of Daniel Webster,* 2 vols. (Boston, 1857); and Claude H. Van Tyne (ed.), *Letters of Daniel Webster* (New York, 1909). Charles Francis Adams (ed.), *Memoirs of John Quincy Adams,* 12 vols. (Philadelphia, 1874–1877), is a storehouse of information, but few references to Grundy are included. Other important collections are Reginald C. McGrane (ed.), *The Correspondence of Nicholas Biddle Dealing With National Affairs, 1807–1844* (Boston, 1919); John Bassett Moore (ed.), *The Works of James Buchanan, Comprising his Speeches, State Papers, and Private Correspondence,* 12 vols. (Philadelphia, 1911); and Elihu B. Washburne (ed.), *The Edwards Papers* (Chicago, 1884). A few valuable James K. Polk letters are included in St. George L. Sioussat (ed.), "Letters of James K. Polk to Cave Johnson," in *Tennessee Historical Magazine* (Nashville, 1915–), I (1915).

Government Documents: Local, State, and National

The principal source of information on the early fortunes of the Grundy family is the local records of Washington County, Kentucky. These manuscripts are located at the county clerk's office in Springfield and consist of bound volumes under the titles of County Court Records, Deed Book, Will Book, Order Book, and Inventories. A valuable collection of land records is Willard Rouse Jillson (ed.), *Old Kentucky Entries and Deeds* (Louisville, 1926). The early Kentucky legislative documents are incomplete and inadequate. The *Journal of the House of Representatives* and the *Journal of the Senate* are poorly arranged and contain no indexes. Early laws are available in William Littell (ed.), *The Statute Law of Kentucky, 1800–1803,* 3 vols. (Frankfort, 1807–1811). Subsequent laws were published un-

der the title of *Session Acts of the General Assembly*. Those relevant to this study end with the year 1820. The decisions of the Kentucky Court of Appeals covering the period of Grundy's justiceship are recorded in Martin D. Hardin (ed.), *Reports of the Cases Argued and Adjudged in the Court of Appeals of Kentucky, 1805–1808* (Frankfort, 1810).

The Tennessee *Journal of the House of Representatives* and *Journal of the Senate* are as incomplete and poorly edited as the Kentucky documents. Apparently little thought was given to the historical importance of such material. Care enough was taken, however, to preserve the manuscript bills and in recent years they have been classified, filed, and made available in the Tennessee State Archives. The general laws were edited under the title *Public Acts of Tennessee,* and those pertaining to public lands have been conveniently arranged in Henry D. Whitney (ed.), *The Land Laws of Tennessee* (Chattanooga, 1891). Several persons have edited one or more volumes of decisions of the Tennessee Supreme Court, but those relevant to this study are found in Jacob Peck (ed.), *Tennessee Reports* (Knoxville, 1824). Most important among the local documents consulted were the Davidson County court records located in the county clerk's office and bound under the titles Minute Book, Record Book, and Wills and Inventories. The Minutes and Trial Dockets in the Circuit Court clerk's office were of little help since no arguments or details of trials are recorded.

The proceedings of Congress for the period 1789–1824 were published in the *Debates and Proceedings in the Congress of the United States,* 49 vols. (Washington, 1834–1856). This work, commonly referred to as *Annals of Congress,* is not a firsthand account and no high degree of accuracy can be claimed for it; but with all the possibilities of omissions and errors it is still the most complete and authentic record of congressional speeches and proceedings. The *Register of Debates,* 14 vols. (Washington, 1824–1837) gives a verbatim report of the important debates during the period 1824–1837. Beginning with 1833 and continuing through 1873, the debates are also reported in the *Congressional Globe,* 46 vols. (Washington, 1834–1873). The *United*

States Senate Documents, 21 Congress–25 Congress, were of great assistance, especially in the study of public lands and the Post Office investigation.

No study of the problems of the Jackson period could be complete without the aid secured from the valuable *American States Papers, Documents, Legislative and Executive*, 38 vols. (Washington, 1832–1861). The division dealing with *Public Lands, 1789–1837*, 8 vols. (1832–1861), contains committee reports as well as other important data on public lands. Volume III of the division on *Foreign Relations, 1789–1829*, 6 vols. (1832–1857) is indispensable to a study of the War of 1812. The presidential communications to Congress are conveniently collected in James D. Richardson (ed.), *A Compilation of the Messages and Papers of the Presidents, 1789–1902*, 10 vols. (Washington, 1903). The brief period during which Grundy was attorney general is covered in B. F. Hall (ed.), *Official Opinions of the Attorneys General of the United States Advising the President and Heads of Departments* (Washington, 1852), III. This work was of little importance in this study because the opinions delivered by Grundy were on subjects of minor consequence.

Contemporary Periodicals and Newspapers

Niles' Weekly Register (Baltimore, 1811–1849) is the most important of the contemporary periodicals. The extensive collections of local items made its columns a valuable depository of material not elsewhere available. In national affairs Hezekiah Niles was anti-Jackson but he lacked the bitterness and narrow vision evinced by most contemporary editors. The *United States Magazine and Democratic Review* (New York, 1837–1859) began publication too late to be of much assistance in the preparation of this study, but Volume III (1838) contains a valuable sketch of Grundy.

The files of the Frankfort *Palladium* and the Lexington *Kentucky Gazette* cover the period of Grundy's connection with Kentucky politics. Both were inseparably linked with the interests of the Bluegrass region, but in their columns were included many essays on both sides of state political questions.

Owing to the short life of the average Tennessee newspaper and the frequent change in title, a mere listing becomes a difficult task. Bound volumes sometimes include issues of different titles, and the files, especially of the small town papers, are incomplete. The earliest relevant file is the Nashville *Impartial Review and Cumberland Repository* which was apparently established in 1806 and discontinued in 1808. The Nashville *Clarion* began publication in 1808, but by 1810 had changed its title to the *Democratic Clarion and Tennessee Gazette*. Publication under that name continued until 1821 when it again became the Nashville *Clarion*. This paper was purchased by Patrick Darby in 1822 and renamed the *Constitutional Advocate*, but failure in his attempt to discredit Grundy and win a seat in the legislature terminated his career as an editor. In 1824 the paper was rechristened the Nashville *Republican* (1824–1837).

The only other Nashville newspaper dating back to the War of 1812 was the Nashville *Whig* which began publication in 1812 and continued under that name until 1817. Both it and the *Democratic Clarion and Tennessee Gazette* listed above were staunch supporters of the war hawks. In 1817 the *Whig* adopted the title Nashville *Whig and Tennessee Advertiser* only to readopt its original name two years later. In 1820 it combined with the *National Banner and Literary, Political, and Commercial Advertiser*, which had been established the previous year, forming the *National Banner and Nashville Whig*. This was a weekly, triweekly, semiweekly, and daily publication. On April 11, 1829, the weekly assumed the title *National Banner*, and after March 11, 1832, the daily became the *National Banner and Daily Advertiser*. Another Nashville newspaper made its appearance in 1819 under the title of the Nashville *Gazette*, but by 1827 the name had been changed to Nashville *Republican and State Gazette* (1826–1837).

The entire Nashville press enthusiastically supported Andrew Jackson for the presidency and continued loyal through the election of 1832. It refused, however, to follow him in his preference for Martin Van Buren over Tennessee's favorite son, Hugh Lawson White. Indeed, the only important newspaper in Tennessee which supported Van

Buren in 1836 was the Nashville *Union* created for that purpose in March, 1835. In August, 1837, the above-mentioned Nashville *Republican* and *National Banner and Nashville Whig* consolidated into a Whig organ under the title *Republican Banner,* and in the following year a new paper under the old title of Nashville *Whig* began publication.

Other Tennessee newspapers with the dates consulted in the incomplete files are herewith listed: Knoxville *Register,* 1818–1840; Knoxville *Argus and Commercial Herald,* 1839–1840; Knoxville *Times,* 1839–1840; Knoxville *Enquirer,* 1824–1827; Knoxville *Intelligencer,* 1822–1823; *Wilson's Knoxville Gazette,* 1811–1813; Memphis *Enquirer,* 1836–1840; Elizabethton *Tennessee Whig,* 1839–1840; Clarksville *Tennessee Watchman,* 1821–1824; Clarksville *Gazette,* 1819–1820; Sparta *Review,* 1824–1825; Jackson *Gazette,* 1825–1828; Randolph *Recorder,* 1834–1836; Somerville *Reporter,* 1839–1840; Franklin *Western Weekly Review,* 1831–1833; and Paris *West Tennessean,* 1838–1839.

By 1812 the question of war with Great Britain had divided the nation's press into two hostile groups. The pro-war files consulted were the Philadelphia *Aurora and General Advertiser,* 1811–1814; the Washington *National Intelligencer,* 1811–1840; and the Richmond *Enquirer,* 1811–1840. Most useful among the opposition papers were the Boston *Gazette,* 1811–1814; the Hartford *Connecticut Courant,* 1812–1814; the Boston *Repertory and General Advertiser,* 1811–1814; and the Charleston *Courier,* 1811–1814.

Two of the above-mentioned newspapers—the *National Intelligencer* and the Richmond *Enquirer*—are also helpful in studying the Jackson period. The former mildly supported the National Republican and then the Whig cause, hesitating to indulge in violent denunciation of the party in power. The *Enquirer,* under the able editorship of Thomas Ritchie, originally favored Crawford for the presidency but later became an ardent supporter of the Jackson Administration.

In March, 1826, the advocates of Andrew Jackson for president established the Washington *United States Telegraph* (1826–1837) with Duff Green as editor, and this paper continued to be the official organ until Jackson's break with

Calhoun. After 1830 it became a bitter critic of the Administration. When Jackson realized that Green's sympathies were with Calhoun, he resolved to establish a new partisan paper, and Francis P. Blair was summoned to Washington to become editor of the *Globe* (1830–1845).

Autobiographies, Memoirs, and Reminiscences

Economic and social conditions in Kentucky and Tennessee at the opening of the nineteenth century are portrayed in Fortescue Cumings, *Sketches of a Tour to the Western Country* [1807–1809] (Cleveland, 1904), in Reuben G. Thwaites, *Early Western Travels*, 32 vols. (Cleveland, 1904–1907), IV; François André Michaux, *Travels to the West of the Alleghany Mountains* [1801–1802] (Cleveland, 1904), *ibid.*, III; and Samuel Cole Williams (ed.), "Nashville as Seen by Travelers, 1801–1821," in *Tennessee Historical Magazine*, 2nd Series, I (1931). A useful social and political supplement to these accounts is the "Memoirs of Micah Taul," in *Register of the Kentucky State Historical Society* (Frankfort, 1903–), XXVII (1929). Taul was for a number of years a county clerk in Kentucky and later moved to Winchester, Tennessee.

The most intimate as well as complete sources on Grundy as a lawyer are "Sketches of Notable Men from the Diaries of S. H. Laughlin," in *Tennessee Historical Magazine*, IV (1918); and Josephus C. Guild, *Old Times in Tennessee* (Nashville, 1878). Both of these men were close friends of Grundy. Laughlin, as an attorney general, often traveled with him and at times the two occupied the same bed. Another short excerpt from Laughlin's "Diaries" published in the *Tennessee Historical Magazine*, II (1916), throws some light upon the proceedings of the Democratic convention of 1840. What happened to the remainder of this valuable manuscript is unknown. Other useful contemporary sketches of Grundy are found in Oliver P. Temple, *Notable Men of Tennessee, 1833–1875* (New York, 1912); and George Perry, *Sketches by Governor Perry of South Carolina* (Philadelphia, 1887).

Of the autobiographies and reminiscences covering the Jackson era, John C. Fitzpatrick (ed.), *The Autobiography*

of Martin Van Buren, in American Historical Association, *Annual Report,* 1918, II (Washington, 1920); and Charles W. March, *Reminiscences of Congress* (New York, 1850), are most valuable. Ben Perley Poore, *Perley's Reminiscences of Sixty Years in the National Metropolis* (Philadelphia, 1886); Nathan Sargent, *Public Men and Events,* 2 vols. (Philadelphia, 1875); and William Stickney (ed.), *Autobiography of Amos Kendall* (Boston, 1872), contain little relevant material.

Biographies

A complete biography of Grundy has not heretofore been attempted. Miss Frances Ewing wrote an excellent master's thesis at Vanderbilt University on "The Senatorial Career of Honorable Felix Grundy," which was later published in the *Tennessee Historical Magazine,* 2nd Series, II (1931–1932). Charles Biddle, *Senator Grundy's Political Conduct Reviewed* (Nashville, 1832), was written in an effort to defeat Grundy for re-election to the United States Senate and therefore is extremely partisan. John M. Bright, *An Oration on the Life, Character, and Public Services of Hon. Felix Grundy* (Nashville, 1859), delivered on the occasion of the presentation of a portrait of Grundy to the Tennessee Historical Society, is so eulogistic as to render it valueless.

Biographies of Grundy's contemporaries are abundant and many of them were found useful. The life of Andrew Jackson has been covered from almost every angle and by men of varying political views. The most valuable of the earlier works is James Parton, *Life of Andrew Jackson,* 3 vols. (New York, 1860). The date of publication made an adequate treatment impossible, but it contains a wealth of useful material. Later works of merit are William G. Sumner, *Andrew Jackson* (Boston, 1899); Augustus C. Buell, *A History of Andrew Jackson,* 2 vols. (New York, 1904); Arthur St. Clair Colyar, *Life and Times of Andrew Jackson,* 2 vols. (Nashville, 1904); and Samuel Gordon Heiskell, *Andrew Jackson and Early Tennessee History,* 3 vols. (Nashville, 1921). The most thorough student of Jackson was the late John Spencer Bassett; his *The Life of Andrew Jackson,* 2 vols. (New York, 1911), remains the best political biography

of Old Hickory. The most intimate portrayal of Jackson as a man is Marquis James, *Andrew Jackson, The Border Captain* (Indianapolis, 1933) and *The Portrait of a President* (Indianapolis, 1937).

The long and brilliant career of Henry Clay brought forth several biographies by contemporaries. Although the authors were partisan in their views and wrote without having access to many valuable sources of information, their accounts are still useful in the study of Clay and his times. The more important of these are George D. Prentice, *Biography of Henry Clay* (New York, 1831); Daniel Mallory (comp. and ed.), *The Life and Speeches of the Hon. Henry Clay*, 2 vols. (New York, 1844); and Leary and Getz (pub.), *The Life and Speeches of Henry Clay*, 2 vols. (Philadelphia, 1859). In this group should also be listed Thomas Hart Clay, *Henry Clay* (Philadephia, 1910). The first scholarly study of the life of Clay was Carl Schurz, *Henry Clay*, 2 vols. (Boston, 1887), and some maintain that it is still unexcelled. In recent years a revived interest in biography and the discovery of new material have resulted in the appearance of two new studies. Glyndon G. Van Deusen, *The Life of Henry Clay* (Boston, 1937), is probably the best. Bernard Mayo, *Henry Clay, Spokesman of the New West* (Boston, 1937), is the first of a proposed three-volume work. The early chapters of this first volume are more local history than biography and this fact makes them of great value in a study of Grundy's years in Kentucky.

Other biographies utilized with a varying degree of profit are herewith listed: William Cabell Bruce, *John Randolph of Roanoke, 1773–1833*, 2 vols. (New York, 1922); Joshua W. Caldwell, "John Bell of Tennessee," in *American Historical Review* (New York, 1895–), IV (1899); Claude Moore Fuess, *Daniel Webster*, 2 vols. (Boston, 1930); Theodore D. Jervey, *Robert Y. Hayne and His Times* (New York, 1909); Lucius P. Little, *Ben Hardin: His Times and Contemporaries* (Louisville, 1887); John S. Jenkins, *Life of James K. Polk* (Hudson, N. Y., 1850); Eugene I. McCormac, *James K. Polk: A Political Biography* (Berkeley, 1922); John S. Jenkins, *Life of John Caldwell Calhoun* (New York, 1850); William M. Meigs, *The Life of John Caldwell Calhoun*, 2 vols. (New York, 1917); Leland Winfield Meyer, *Life of*

Colonel Richard M. Johnson of Kentucky (New York, 1932); Paul I. Miller, "Thomas Ewing, Last of the Whigs" (Ph.D. dissertation, Ohio State University, 1933); W. C. Ogden, "Langdon Cheves" (Master's thesis, Duke University, 1930); Mrs. St. Julien Ravenel, *Life and Times of William Lowndes of South Carolina* (New York, 1901); J. E. D. Shipp, *Giant Days or the Life and Times of William H. Crawford* (Americus, Ga., 1909).

Useful collections of short biographical sketches are William H. Brown, *Portrait Gallery of Distinguished Citizens with Biographical Sketches* (Hartford, 1845); James B. Longacre and James Herring (eds.), *The National Portrait Gallery of Distinguished Americans*, 4 vols. (Philadelphia, 1836); Joshua W. Caldwell, *Sketches of the Bench and Bar of Tennessee* (Knoxville, 1898); Henry S. Foote, *Bench and Bar of the South and Southwest* (St. Louis, 1876); H. Levin, *The Lawyers and Lawmakers of Kentucky* (Chicago, n.d.); Allen Johnson and Dumas Malone (eds.), *Dictionary of American Biography*, 20 vols. and index (New York, 1928–1937); and *Biographical Encyclopedia of Kentucky* (Cincinnati, 1878).

Histories and Monographs

There are a few general works which are essential to an understanding of the period under study. For details on the important phases of the War of 1812, Henry Adams, *History of the United States of America*, 9 vols. (New York, 1889–1891), has not been surpassed. The Jackson era is ably treated in Claude G. Bowers, *Party Battles of the Jackson Period* (Boston, 1928); William MacDonald, *Jacksonian Democracy* (New York, 1906); William O. Lynch, *Fifty Years of Party Warfare* (Indianapolis, 1931); and Erik M. Eriksson, "The Federal Civil Service Under President Jackson," in *Mississippi Valley Historical Review* (Cedar Rapids, 1915–), XIII (1927).

To this list should be added a number of works of state and local nature. The best accounts of early economic and political development in Tennessee are Thomas Perkins Abernethy, *From Frontier to Plantation in Tennessee; A Study in Frontier Democracy* (Chapel Hill, 1932), and

Philip M. Hamer, *Tennessee: A History, 1673–1932,* 4 vols. (New York, 1933). Other works rich in details but short in evaluation and interpretation are W. Woodford Clayton, *History of Davidson County, Tennessee* (Philadelphia, 1880); H. W. Crew, *History of Nashville, Tennessee* (Nashville, 1890); Will T. Hale and Dixon L. Merritt, *A History of Tennessee and Tennesseans,* 8 vols. (Chicago, 1913); John Haywood, *Civil and Political History of the State of Tennessee* (Knoxville, 1823); Goodspeed Company (pub.), *History of Tennessee* (Nashville, 1887); John Trotwood Moore and Austin P. Foster, *Tennessee, The Volunteer State,* 4 vols. (Nashville, 1923); James Phelan, *History of Tennessee* (Boston, 1888); Albigence Waldo Putnam, *History of Middle Tennessee or Life and Times of General James Robertson* (Nashville, 1859); and Samuel C. Williams, *Beginnings of West Tennessee* (Johnson City, 1930). Two works on special phases of Tennessee history merit mention: K. P. Battle, *History of the University of North Carolina,* 2 vols. (Raleigh, 1907–1912), contains a short discussion of the North Carolina-Tennessee land controversy; and the Kentucky-Tennessee boundary dispute is treated in William Robertson Garrett, *History of the South Carolina Cession and the Northern Boundary of Tennessee* (Nashville, 1884).

Works on early Kentucky history which have been useful are J. H. Battle and William H. Perrin, *Kentucky, A History of the State* (Louisville, 1885); Lewis Collins, *History of Kentucky,* 2 vols. (Louisville, 1824); William E. Connelley and E. Merton Coulter, *History of Kentucky,* 5 vols. (New York, 1922); Humphrey Marshall, *History of Kentucky,* 2 vols. (Frankfort, 1824); William H. Perrin, *History of Fayette County* (Chicago, 1882); George W. Ranck, *History of Lexington, Kentucky* (Cincinnati, 1872); Martin J. Spalding, *Sketches of the Early Catholic Missions of Kentucky* (Louisville, n.d.); and Bennett H. Young, *History and Texts of the Three Constitutions of Kentucky* (Louisville, 1890).

A few useful bits of material on the Grundy family and its early residence in Virginia were also gleaned from James R. Albach, *Annals of the West* (Pittsburgh, 1856); Vernon Aler, *A Full and Complete History of Martinsburg and Berkeley County, West Virginia* (Hagerstown, n.d.); Wills de Haas, *History of the Early Settlements and Indian Wars*

of Western Virginia (Wheeling, 1851); Florence Wilson Houston, *Maxwell History and Genealogy* (Indianapolis, 1916).

Foremost among the monographs on the various phases of the War of 1812 is Julius W. Pratt, *Expansionists of 1812* (New York, 1925). Other phases are covered in Dice Robins Anderson, "The Insurgents of 1811," in American Historical Association, *Annual Report,* 1911, I (Washington, 1913); Christopher B. Coleman, "The Ohio Valley in the Preliminaries of the War of 1812," in *Mississippi Valley Historical Review,* VII (1921); Louis M. Hacker, "Western Land Hunger and the War of 1812: A Conjecture," *ibid.,* X (1924); Ellery K. Hall, "Canadian Annexation Sentiment in Kentucky Prior to the War of 1812," in *Register of the Kentucky State Historical Society,* XXVIII (1930); Gaillard Hunt, "Joseph Gales on the War Manifesto of 1812," in *American Historical Review,* XIII (1908); Julius W. Pratt, "Western Aims in the War of 1812," in *Mississippi Valley Historical Review,* XII (1926); and Theodore Clarke Smith, "War Guilt in 1812," in Massachusetts Historical Society, *Proceedings* (Boston, 1791–), LXIV (1931).

Early nineteenth century banks and banking has been the subject of several monographs. Early state banking in Kentucky and Tennessee is treated in Elmer C. Griffith, "Early Banking in Kentucky," in Mississippi Valley Historical Association, *Proceedings* (Cedar Rapids, 1907–1924), II (1910); Basil W. Duke, *History of the Bank of Kentucky* (Louisville, 1895); Thomas Perkins Abernethy, "The Early Development of Commerce and Banking in Tennessee," in *Mississippi Valley Historical Review,* XIV (1928); Claude Campbell, "The Development of Banking in Tennessee" (Ph.D. dissertation, Vanderbilt University, 1932); and *id.,* "Banking and Finance in Tennessee During the Depression of 1837," in East Tennessee Historical Society's *Publications* (Knoxville, 1929–), No. 9 (1937).

The most complete study of the Bank of the United States is Ralph C. H. Catterall, *The Second Bank of the United States* (Chicago, 1903). A somewhat briefer account is John T. Holdsworth and Davis R. Dewey, *The First and Second Banks of the United States* (Washington, 1910). Other phases of the question of finance are covered in Edward G.

Bourne, *History of the Surplus Revenue of 1837* (New York, 1885); Reginald C. McGrane, *The Panic of 1837: Some Financial Problems of the Jackson Era* (Chicago, 1924); and David Kinley, *The Independent Treasury of the United States and Its Relations to the Banks of the Country* (Washington, 1910).

A standard work on the question of public lands is Benjamin H. Hibbard, *A History of the Public Land Policies* (New York, 1924). More useful, however, in the preparation of this study were Raynor Greenleaf Wellington, *Political and Sectional Influences of the Public Lands, 1828–1842* (Cambridge, 1914); and *id.*, "The Tariff and Public Lands from 1828 to 1833," in American Historical Association, *Annual Report*, 1911, I.

An earlier monograph on nullification which is still usable is David F. Houston, *A Critical Study of Nullification in South Carolina* (New York, 1896), but it has been largely superseded by Chauncey S. Boucher, *The Nullification Controversy in South Carolina* (Chicago, 1916), and Frederic Bancroft, *Calhoun and the South Carolina Nullification Movement* (Baltimore, 1928). New light on the Jefferson Day dinner is found in Richard R. Stenberg, "The Jefferson Birthday Dinner, 1830," in *Journal of Southern History* (Baton Rouge, 1935–), IV (1938).

Works of especial merit on the different phases of Tennessee politics are Thomas Perkins Abernethy, "Andrew Jackson and the Rise of Southwestern Democracy," in *American Historical Review*, XXXIII (1927); St. George L. Sioussat, "Some Phases of Tennessee Politics in the Jackson Period," *ibid.*, XIV (1908); Powell Moore, "The Political Background of the Revolt Against Jackson in Tennessee," in East Tennessee Historical Society's *Publications*, No. 4 (1932); Thomas Perkins Abernethy, "Origins of the Whig Party in Tennessee," in *Mississippi Valley Historical Review*, XIV (1927); Powell Moore, "The Revolt Against Jackson in Tennessee," in *Journal of Southern History*, II (1936); Albert Virgil Goodpasture, "John Bell's Political Revolt and His Vauxhall Garden Speech," in *Tennessee Historical Magazine*, II (1916); and Powell Moore, "James K. Polk and Tennessee Politics," in East Tennessee Historical Society's *Publications*, No. 9 (1937).

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